2

What Is Intrinsic Compliance Motivation?

INTRODUCTION

While intrinsically motivated compliance might seem like the clearest approach to defining voluntary compliance – *where people will want to comply, not just comply* – relying solely on this definition presents several challenges. First, it sets an unrealistic ideal that few people could achieve. Second, individuals often comply for multiple reasons, making it difficult to identify the dominant motivation. Third, basing a definition on subjective factors that are hard to observe externally is problematic from a practical standpoint.

For these reasons, this book adopts a broader definition: compliance that occurs without state coercion. Although this approach might include some forms of compliance that are not truly voluntary, it offers a more practical framework since it focuses on regulatory approaches rather than individual motivations. Nevertheless, within this broader framework, understanding which intrinsically motivated approaches are more likely to result in voluntary compliance remains critically important.

Presumably, certain motivations are more likely to enhance trustworthiness in people. For example, an action motivated by external circumstances, such as monitoring and incentives, seems less stable or sustainable than actions resulting from intrinsic motivations that reflect an individual's personality traits and beliefs. The stability of such intrinsic motivations is supported by both law and economics accounts. For example, according to Robert Cooter's equilibrium perspective, internalization of legal norms is likely to produce stable civic acts in the public.[1]

It should, of course, be borne in mind that voluntary compliance is not contingent on changing individual motivation. As discussed in Chapter 1, the term voluntary compliance can have multiple meanings. Moreover, motivation theories do not presume to suggest that changing individuals' motivation is a solution to all societal problems.[2]

[1] Cooter, Robert. "Do good laws make good citizens? An economic analysis of internalized norms." *Virginia Law Review* 86 (2000): 1577–1602.

[2] This qualification was recently suggested in Chater, Nick, and George Loewenstein. "The i-frame and the s-frame: How focusing on individual-level solutions has led behavioral public policy astray."

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

However, in many ways, compliance motivation is the driving force behind the change which this book seeks to effect in both regulation and compliance literatures. Motivation theories challenge dominant accounts, such as the nudge theory, which attempts to change individuals' behavior while ignoring their underlying motivations. Hence, the aim of this chapter is to examine whether motivation analysis could reduce and limit the role of the state in monitoring individual behaviors.

WHY IS INTRINSIC MOTIVATION IMPORTANT FOR COMPLIANCE?

As discussed, the literature on compliance has advocated the advantage of intrinsic motivation regarding voluntary compliance.[3] This advantage is based on three significant characteristics. First, when people are intrinsically motivated to accomplish a given task, there is less needed to monitor their compliance with the task's instructions. In addition, their compliance is more resilient. Finally, their performance is more likely to exceed the required behavior.[4] Therefore, it is possible to appreciate that intrinsically motivated behavior is advantageous in the context of legal compliance.[5] To better clarify this advantage in the context of the scholarship on legal compliance, further scrutiny of the three characteristics of intrinsically motivated behavior mentioned is needed. This is the goal of the next sections.

WHAT IS INTRINSIC MOTIVATION?

The book's skeptical stance toward intrinsic motivation as a reliable predictor of compliance stems from two key factors. First, empirical findings cast doubt on its predictive power. Second, and perhaps more fundamentally, the concept itself suffers from definitional ambiguity (see Figure 0.3). This lack of conceptual clarity makes intrinsic motivation both difficult to measure behaviorally and challenging to apply as a normative framework. In psychology, intrinsic motivation is defined as the desire to engage in an activity for its own sake rather than for external rewards.[6] This

Behavioral and Brain Sciences 46 (2023): e147. Chater and Lowenstein argue that focusing on individuals' behaviors essentially lets organizations and states off the hook for their responsibilities to global and social challenges (such as climate change, for instance). However, it should be noted that the view suggested in this book is not to reduce the responsibilities of the state by empowering the role of individuals, but rather examine the possibility of limiting the role of the state in monitoring individual behavior.

3 Dwenger, Nadja, et al. "Extrinsic and intrinsic motivations for tax compliance: Evidence from a field experiment in Germany." *American Economic Journal: Economic Policy* 8.3 (2016): 203–232.

4 Feldman, Yuval. "The complexity of disentangling intrinsic and extrinsic compliance motivations: Theoretical and empirical insights from the behavioral analysis of law." *Washington University Journal of Law and Policy* 35 (2011): 11–52.

5 Boussalis, Constantine, Yuval Feldman, and Henry E. Smith. "Experimental analysis of the effect of standards on compliance and performance." *Regulation & Governance* 12.2 (2018): 277–298.

6 Halla, Martin. "The link between the intrinsic motivation to comply and compliance behaviour: A critical appraisal of existing evidence." In *Handbook on the shadow economy*, edited by Friedrich Schneider, Edward Elgar Publishing, 2011: 375–408.

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

is related to self-determination and to behaviors that increase people's autonomy, enjoyment, and competence.[7] When an individual finds a behavior rewarding, they benefit from it and are more likely to continue engaging in it.[8] That said, extrinsic motivation is involved when an individual is motivated to engage in behavior for reasons unrelated to the action itself.

The difference between these two perspectives of intrinsic and extrinsic motivation may be related to the question of how to treat factors such as fairness, legitimacy, and morality.[9] In the legal literature, these factors are viewed as elements of intrinsic motivation. However, when applying the pure psychological definition of scholars like Edward Deci,[10] these factors may not actually be considered intrinsic, as they are not related to the activity itself but to questions such as whether the social institutions that require it are just and accepted by others. Some of the differences might be related to the fact that, regarding compliance, the behavior itself is often not driven by individual choice but is imposed upon the individual. In some cases, the individual may internalize the behavior, although it was not originally their choice.

INTRINSIC MOTIVATION: REASON, TRUST, MORALITY, AND PROCEDURAL JUSTICE

A notable trend across various disciplines is the growing recognition of the significance of intrinsic motivation. However, the concept of intrinsic motivation itself is subject to diverse interpretations. Broadly speaking, three distinct approaches have emerged in understanding this phenomenon. One approach to intrinsic motivation focuses on persuasion in the logic or science behind the law.[11] This approach could even be attributed to Plato, for whom the mechanisms of intrinsic motivation extended beyond morality.[12] As argued in Stalley's paper on Plato's laws, people are more likely to obey of their own free will if they are persuaded and understand

[7] Ryan, Richard M., and Edward L. Deci. "Self-determination theory and the facilitation of intrinsic motivation, social development, and well-being." *American Psychologist* 55.1 (2000): 68–78.

[8] Reeve, Johnmarshall, Steven G. Cole, and Bradley C. Olson. "Adding excitement to intrinsic motivation research." *Journal of Social Behavior and Personality* 1.3 (1986): 349–363.

[9] Tyler, Tom R. "Legitimacy and rule adherence: A psychological perspective on the antecedents and consequences of legitimacy." In *The psychology of justice and legitimacy*, edited by D. Ramona Bobocel, Aaron C. Kay, Mark P. Zanna and James M. Olson, Psychology Press, 2011: 251–271; see also Figure 0.1.

[10] Ryan, Richard M., and Edward L. Deci. "Intrinsic and extrinsic motivations: Classic definitions and new directions." *Contemporary Educational Psychology* 25.1 (2000): 54–67.

[11] Ariel, Barak. "Deterrence and moral persuasion effects on corporate tax compliance: Findings from a randomized controlled trial." *Criminology* 50.1 (2012): 27–69.

[12] Bobonich, Christopher. "Persuasion, compulsion and freedom in Plato's Laws." *The Classical Quarterly* 41.2 (1991): 365–388; Stalley, Richard F. "Persuasion in Plato's 'Laws.'" *History of Political Thought* 15.2 (1994): 157–177.

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

the logic behind the law.[13] This approach is also consistent with the work of Eyal Zamir and colleagues,[14] which examines why giving reasons as a potential nudge can enhance compliance. Their focus is on showing how providing clear and convincing explanations for the request and explaining the logic behind it can increase the level of compliance.

Another approach, related to the content of the law but from a different perspective, argues that obeying the law is the moral thing to do,[15] due to the potential harm caused by the violation of the law.[16] Nonetheless, the notion of morality, while always viewed as part of intrinsic motivation, is not necessarily tied to the law. For example, morality could be perceived as related to the general feeling of guilt people might have (see Figure 0.4). This feeling is more related to the personality of the individual than to the content of the law.[17] However, there can be a possible connection between persuasion and morality in the sense that it is more immoral to violate laws that do make sense than laws that do not.

Finally, a third "intrinsic motivation" mechanism is related to procedural justice and legitimacy.[18] As discussed in more detail later in this chapter, numerous studies have highlighted the importance of legitimacy and procedural justice, which underlie the functioning of the legal system and the laws that people are expected to obey.[19] Accordingly, it has been found that when police and criminal justice officials treat citizens fairly and respectfully, people are more likely to follow the law.[20] Citizens' perceptions of receiving procedurally just treatment are closely tied to perceptions of police legitimacy, which are strongly associated with legal compliance. Interestingly, while perceptions of morality are considered important in experimental studies, no advantage of morality was found in experimental field studies (see Figure 0.1). For example, looking at randomized field experiments, Barak Ariel found that using warning letters with moral arguments or threats of penalties did not significantly improve tax-reporting compliance.[21]

[13] Bobonich. "Persuasion, compulsion and freedom in Plato's Laws."

[14] Lewinsohn-Zamir, Daphna, Eyal Zamir, and Ori Katz. "Giving reasons as a means to enhance compliance with legal norms." *University of Toronto Law Journal* 72.3 (2022): 316–355.

[15] Friedman, Lawrence M. *Impact: How law affects behavior*. Harvard University Press, 2016.

[16] Wasieleski, David M., and Sefa Hayibor. "Breaking the rules: Examining the facilitation effects of moral intensity characteristics on the recognition of rule violations." *Journal of Business Ethics* 78 (2008): 275–289.

[17] Frey, Bruno S., and Benno Torgler. "Tax morale and conditional cooperation." *Journal of Comparative Economics* 35.1 (2007): 136–159.

[18] Jackson, Jonathan, et al. "Why do people comply with the law? Legitimacy and the influence of legal institutions." *British Journal of Criminology* 52.6 (2012): 1051–1071. Compare with Figure 0.3.

[19] Jackson et al. "Why do people comply with the law?"

[20] Sunshine, Jason, and Tom R. Tyler. "The role of procedural justice and legitimacy in shaping public support for policing." *Law & Society Review* 37.3 (2003): 513–547. For a different approach see Nagin, Daniel S., and Cody W. Telep. "Procedural justice and legal compliance." *Annual Review of Law and Social Science* 13.1 (2017): 5–28.

[21] Ariel. "Deterrence and moral persuasion effects on corporate tax compliance."

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

DISTINGUISHING BETWEEN INTRINSIC AND EXTRINSIC MOTIVATIONS

Distinguishing between intrinsic and extrinsic motivations is a major challenge for researchers and even more so for policymakers. These motivations are not necessarily as mutually exclusive as some might assume.[22]

Defining internalized compliance for regulatory and compliance research requires careful consideration. While compliance research typically takes a broad view of internalization, regulatory contexts may need a more specific and targeted definition. For example, if the goal is to have people internalize the law, it might be unrealistic and even problematic for an individual to become a 100 percent true believer in the law (see Figure 0.2). That is, it may not be desirable to have people become wholehearted believers in any law while lacking any doubts, which are considered legitimate in democratic regimes.

Therefore, a broader definition of internalized compliance, which might be more suitable for our book's argument, is that it occurs when no monitoring exists. For our purposes, even if people are not true believers, this level of compliance could be considered intrinsic.

IDENTIFYING COMPLIANCE MOTIVATIONS

The classical argument for the importance of understanding motivation in compliance in general, and voluntary compliance in particular, is related to the assumed advantage of intrinsic motivation over extrinsic motivation. This argument suggests that when people are motivated by intrinsic motivation, enforcement is not only less expensive but also might lead people to behaviors that could not be achieved by mere deterrence.[23] In many situations, it is desirable to encourage behavior beyond simply compliance. In such cases, noninstrumental motivation is often the most effective means of attaining the sought-after changes in human behavior.[24] This effectiveness seems to be the main justification for using a legal design, which can be aligned with the most likely dominant motivation in any given situation. It is believed that such a legal design is likely to produce a general acceptance of the policy as just, reasonable, or legitimate. This, in turn, is likely to cause people to rely on their intrinsic motivation when complying with it.

[22] Feldman. "The complexity of disentangling intrinsic and extrinsic motivation."

[23] A well-known demonstration of this claim is given in Gneezy, Uri, and Aldo Rustichini. "A fine is a price." *Journal of Legal Studies* 29.1 (2000): 1–17. Gneezy and Rustichini investigate whether imposing a fine on certain misconduct functions as a "price-tag" over that behavior. Using an experimental setting, they impose a monetary fine on parents who were late picking up their children from daycare. They observed that, contrary to traditional accounts on deterrence, once the fines were introduced, the number of parents arriving late increased steadily rather than decreased;

[24] Tyler, Tom, John Dienhart, and Terry Thomas. "The ethical commitment to compliance: Building value-based cultures." *California Management Review* 50.2 (2008): 31–51.

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

However, the main shortcoming of this approach is clear. It is difficult to predict, identify, and clarify which intrinsic motivation will be superior to an extrinsic one without collecting data for every given situation. Nonetheless, this complexity of determination or prediction could be moderated in some "victimless" areas of legal behavior, such as corporate contexts. However, as we shall see in the remainder of this chapter, even if the indeterminacy is mitigated in these victimless contexts, a host of related questions arise. For example, are we likely to see higher levels of voluntary compliance in these contexts? Could the proportion of people engaging in voluntary compliance be determined in advance? What is the sustainability or erosion of voluntary compliance over time? Is there a difference between different types of intrinsic motivations? Are there behaviors which are more likely to be positively affected by intrinsic motivation? In this chapter and later on, we will also examine the risks of attempting to change people's intrinsic motivation.

DEFINING WHAT TYPES OF MOTIVATIONS CAN BE CONSIDERED VOLUNTARY

As described in Chapter 1, when discussing subjective voluntary compliance, one of the greatest challenges is clarifying the relevant notion of voluntariness. Another related challenge is understanding how motivation affects the scope of voluntariness. For example, how voluntary is compliance when deterrence is achieved through basic compliance rather than voluntary compliance? What about cases where an individual's motivation to comply is instrumental to their own goals? In these cases, is it advantageous to behave by the state's demands, or simply harder not to comply? What kinds of compliance motivation can still be considered voluntary?

There may be a few distinctions regarding what is meant by voluntary compliance, which we will outline in brief to allow for a meaningful comparison. In terms of intrinsic motivation to comply, it is possible to make a distinction between what the individual feels and the objective reality. For example, when a given monetary benefit seems excessively high they may interpret it as diminishing their ability to exercise free choice, thereby affecting their motivation. Naturally, voluntary compliance is not related just to the perception of motivation, some people view things like perceived capacity to comply and finding the opportunity to comply as being related to voluntary compliance. However, as discussed in Chapter 1, at this stage of the argument's development, the focus is primarily on the motivational framework rather than on various contextual factors.

PRICE MOTIVATION

The literature that discusses the price motivation approach is a very extensive one, given the centrality of both deterrence and incentives within legal

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

scholarship.[25] Many scholars have argued that perceptions of the severity and certainty of punishment do not affect delinquent behavior.[26] This argument limits the ability of deterrence to explain both self-reported and actual compliance,[27] particularly if individuals have little awareness of the law in the books.[28] A common argument in the literature is that people are not very sensitive to the severity of a punishment, but are sensitive to the probability of being detected.[29] Other analyses that reviewed the literature for and against deterrence concluded that deterrence is an important policy tool when using the appropriate measurements.[30] Kinneret Teodorescu and colleagues have demonstrated that detection likelihood is more important than its severity. They argue that a policy combining a high probability of inspection with low severity of fines is more effective than an economically equivalent policy.[31]

In pursuing this book's goal to better understand the balance between compliance and voluntary compliance, the price model seems to offer the clearest accommodation between the two approaches. Sanctions are perceived as the most typical approach to compliance,[32] while rewards are one of the most typical approaches to cooperation.[33] However, as discussed in Chapter 1, the meaning of voluntary is key to understanding this issue. It is possible that incentives could be seen as limiting people's ability to choose freely. Furthermore, the most straightforward research in this context is related to crowding out and the effect of incentives on intrinsic motivation.[34]

[25] Zimring, Franklin E., Gordon Hawkins, and James Vorenberg. *Deterrence: The legal threat in crime control*. University of Chicago Press, 1973: 345–369. Also see Tittle, Charles R. *Sanctions and social deviance: The question of deterrence*. Praeger Publishers, 1980: 45–60; Feldman, Yuval. *The law of good people: Challenging states' ability to regulate human behavior*. Cambridge University Press, 2018.

[26] Paternoster, Raymond, and Leeann Iovanni. "The deterrent effect of perceived severity: A reexamination." *Social Forces* 64.3 (1986): 751–777.

[27] Braithwaite, John, and Toni Makkai. "Testing an expected utility model of corporate deterrence." *Law & Society Review* 25 (1991): 7–40.

[28] Robinson, Paul H., and John M. Darley. "Does criminal law deter? A behavioral science investigation." *Oxford Journal of Legal Studies* 24.2 (2004): 173–205.

[29] Doob, Anthony N., and Cheryl Marie Webster. "Sentence severity and crime: Accepting the null hypothesis." *Crime and Justice* 30 (2003): 143–195.

[30] Nagin, Daniel S. "Criminal deterrence research at the outset of the twenty-first century." *Crime and Justice* 23 (1998): 1–42; Fine, Adam, and Benjamin van Rooij. "For whom does deterrence affect behavior? Identifying key individual differences." *Law and Human Behavior* 41.4 (2017): 354–360.

[31] Teodorescu, Kinneret, et al. "Frequency of enforcement is more important than the severity of punishment in reducing violation behaviors." *Proceedings of the National Academy of Sciences* 118.42 (2021): e2108507118.

[32] Some of the arguments here are based on my paper Feldman. "The complexity of disentangling intrinsic and extrinsic compliance motivations," 11–52. For classic discussion of deterrence theory (e.g., Becker, G. S. "Crime and punishment: An economic approach." In *The economic dimensions of crime*, edited by N. G. Fielding, A. Clarke, and R. Witt, Palgrave Macmillan, 1968).

[33] Balliet, Daniel, Laetitia B. Mulder, and Paul A. M. Van Lange. "Reward, punishment, and cooperation: A meta-analysis." *Psychological Bulletin* 137.4 (2011): 594–615.

[34] Weibel, Antoinette, Meike Wiemann, and Margit Osterloh. "A behavioral economics perspective on the over justification effect: Crowding-in and crowding-out of intrinsic motivation." In *The Oxford*

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

NEGATIVE VS. POSITIVE INCENTIVES

Prospect theory, developed by Daniel Kahneman and Amos Tversky, is a fundamental paradigm in behavioral economics. It describes how people choose between probable alternatives involving risk where the probabilities of outcomes are known.[35]

The concept of loss aversion, a key component of prospect theory, has been extensively discussed in the legal field.[36] Many experts have examined various contexts in which losses are perceived as more impactful than equivalent gains.[37] In a study with Doron Teichman and Amos Schurr,[38] we demonstrated that people interpret their contractual obligations more aggressively and with greater self-motivation when trying to avoid a loss.

Building on this understanding of loss aversion, we can examine the differences between fines and incentives in regulatory contexts. While this comparison might seem to align with the loss–gain dichotomy of prospect theory, it extends beyond it due to additional social and normative components associated with fines.[39] For instance, receiving a fine can lead to social stigmatization, stemming from the expressive function of laws and punishments.[40] It can also result in reputational damage and in some cases, a criminal record.[41] In contrast, not receiving an incentive typically has minimal social consequences, as it's less likely to become public knowledge.

Despite attempts to equate fines and prices through the "fine-is-a-price paradigm," this approach doesn't fully capture the complexity of all fines. There remain significant aspects of fines that distinguish them from mere financial losses or foregone gains.[42] This distinction underscores the need for a more nuanced approach when designing regulatory strategies, considering not just the economic impact but also the social and psychological effects of different policy tools.

handbook of work engagement, motivation, and self-determination theory, edited by Marylene Gange, Oxford University Press, 2014: 72–84.

35 Tversky, Amos, and Daniel Kahneman. "Loss aversion in riskless choice: A reference-dependent model." *Quarterly Journal of Economics* 106.4 (1991): 1039–1061.

36 Zamir, Eyal. "Loss aversion and the law." *Vanderbilt Law Review* 65 (2012): 829.

37 Ariely, Dan, Joel Huber, and Klaus Wertenbroch. "When do losses loom larger than gains?" *Journal of Marketing Research* 42.2 (2005): 134–138.

38 Feldman, Yuval, Amos Schurr, and Doron Teichman. "Reference points and contractual choices: An experimental examination." *Journal of Empirical Legal Studies* 10.3 (2013): 512–541.

39 Balliet, Mulder, and Van Lange. "Reward, punishment, and cooperation," 594; Bansal, Sangeeta, and Shubhashis Gangopadhyay. "Tax/subsidy policies in the presence of environmentally aware consumers." *Journal of Environmental Economics and Management* 45.2 (2003): 333–355.

40 Feinberg, Joel. "The expressive function of punishment." In *Shame punishment*, edited by Thom Brooks, Routledge, 2019: 3–26.

41 Cohen, Mark A. "Corporate crime and punishment: An update on sentencing practice in the federal courts, 1988–1990." *Boston University Law Review* 71 (1991): 247–280.

42 See Feldman, Yuval, and Doron Teichman. "Are all legal dollars created equal?" *Northwestern University Law Review* 102 (2008): 223–262.

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

Despite the economic perspective that negative and positive incentives are similar, negative incentives might be more likely to undermine voluntarism while positive incentives may not.[43] As we will outline in the following paragraphs, is it the case that people can choose not to receive a positive incentive, or are they more likely to be sanctioned? For the most part, economists tend to argue for some symmetry between being sanctioned to not being rewarded.[44] But due to the contributions that followed that the introduction of Kahneman and Tversky's prospect theory, we better understand the difference between not getting positive rewards and getting negative rewards. This is because even simply paying a fine seems to carry with it a moral and social price that is not associated with merely not winning the reward. Rewards here refer to positive incentives that reward citizens or companies for compliant behavior.[45]

Within the body of research on rewards, we can focus on various types of rewards. These include economic rewards, such as lottery prizes, monetary payments or restitutions, government benefits, subsidies, nonmonetary rewards, and social rewards, such as praise.[46] Other studies focus on rewards in the form of collective goods or benefits.[47] Rewards have been studied in a variety of contexts, including taxation and the environment,[48] both of which will be discussed in more detail in the

[43] Underhill, Kristen. "When extrinsic incentives displace intrinsic motivation: Designing legal carrots and sticks to confront the challenge of motivational crowding-out." *Yale Journal on Regulation* 33 (2016): 213–280.

[44] See Grabosky, Peter N. "Regulation by reward: On the use of incentives as regulatory instruments." *Law & Policy* 17.3 (1995): 257–282.

[45] Becker. "Crime and punishment"; Feldman. "The complexity of disentangling intrinsic and extrinsic compliance motivations," 11–52; Feldman, Yuval, and Orly Lobel. "The incentives matrix: The comparative effectiveness of rewards, liabilities, duties, and protections for reporting illegality." *Texas Law Review* 88 (2009): 1151–1212; also see Feld, Lars P., and Bruno S. Frey. "Tax compliance as the result of a psychological tax contract: The role of incentives and responsive regulation." *Law & Policy* 29.1 (2007): 102–120; also see Grabosky, Peter N. "Fear of crime, and fear reduction strategies." *Current Issues in Criminal Justice* 7.1 (1995): 7–19.

[46] See Torgler, Benno. "Tax morale: Theory and empirical analysis of tax compliance." Dissertation, University of Basel, 2003; also see Fabbri, Marco, Paolo Nicola Barbieri, and Maria Bigoni. "Ride your luck! A field experiment on lottery-based incentives for compliance." *Management Science* 65.9 (2019): 4336–4348; Nosenzo, Daniele, et al. "Encouraging compliance: Bonuses versus fines in inspection games." *Journal of Law, Economics, & Organization* 30.3 (2014): 623–648; Alm, James. "Measuring, explaining, and controlling tax evasion: Lessons from theory, experiments, and field studies." *International Tax and Public Finance* 19 (2012): 54–77; Bansal and Gangopadhyay. "Tax/subsidy policies in the presence of environmentally aware consumers"; Koessler, Ann-Kathrin, et al. "Commitment to pay taxes: Results from field and laboratory experiments." *European Economic Review* 115 (2019): 78–98; Handgraaf, Michel J. J., Margriet A. Van Lidth De Jeude, and Kirstin C. Appelt. "Public praise vs. private pay: Effects of rewards on energy conservation in the workplace." *Ecological Economics* 86 (2013): 86–92.

[47] Alm, James, Gary H. McClelland, and William D. Schulze. "Changing the social norm of tax compliance by voting." *Kyklos* 52.2 (1999): 141–171. Also see Becker, Winfried, Heinz-Jürgen Büchner, and Simon Sleeking. "The impact of public transfer expenditures on tax evasion: An experimental approach." *Journal of Public Economics* 34.2 (1987): 243–252.

[48] For taxation see: Alm, James, Gary H. McClelland, and William D. Schulze. "Why do people pay taxes?" *Journal of Public Economics* 48.1 (1992): 21–38; also see Dwenger, et al. "Extrinsic and intrinsic

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

following chapters. Other studies have focused on the efficacy of rewards in a more specific context such as fare dodging and voter registration.[49] The total available evidence on the effect of rewards is somewhat limited, with some studies conducted in the laboratory and others in the field.[50] Even this limited evidence on the scope of the effect of rewards leads us to believe that incentives are only partially influencing people's ability to choose to abstain from certain behaviors.

OBLIGATION TO OBEY THE LAW

In a study conducted with Adam Fine and colleagues, we examined the obligation to obey the law (OOL) as a concept independent of other motivations for compliance.[51] We developed and validated the "rule orientation" scale to investigate individual differences in the perceived acceptability of legal rule violations. This new measure assesses how individuals perceive rules, it determines whether individuals view rules as rigid and inflexible or if they acknowledge exceptions. In that paper, we reviewed various literature, including research on neutralization, moral flexibility, and moral disengagement, to identify the key circumstances under which individuals may find it justifiable to violate the law. These circumstances encompass a lack of law knowledge, a cost-benefit analysis favoring violation, social norms supporting rule-breaking, conflicts between laws and personal morals, and a perceived lack of procedural justice in lawmaking and enforcement. In essence, the rule orientation scale measures the degree to which individuals accept justifications for illegal behavior.

In the paper, we systematically compared the scale to existing measures of legal and moral reasoning, finding that a person's orientation to rules significantly predicted their intention to engage in various low-level crimes. This was true even after controlling for the effects of deterrent threats, subjective perceptions of punishment severity, and perceived social norms. In a second study in that paper, we examined the

motivations for tax compliance," 203–232. For the environment see: Julian, Erik Gómez-Baggethun, and Torsten Krause. "Motivation crowding by economic incentives in conservation policy: A review of the empirical evidence." *Ecological Economics* 117 (2015): 270–282. Also see Maki, Alexander, et al. "Paying people to protect the environment: A meta-analysis of financial incentive interventions to promote pro-environmental behaviors." *Journal of Environmental Psychology* 47 (2016): 242–255; and Bansal and Gangopadhyay. "Tax/subsidy policies in the presence of environmentally aware consumers."

[49] For fare dodging see: Fabbri, Barbieri, and Bigoni. "Ride your luck!" For voter registration see: Kölle, Felix, et al. "Low-cost interventions to promote voter registration: What works and why?" No. 2017-16. CeDEx Discussion Paper Series, 2017; John, Peter, Elizabeth MacDonald, and Michael Sanders. "Targeting voter registration with incentives: A randomized controlled trial of a lottery in a London borough." *Electoral Studies* 40 (2015): 170–175. Also see Panagopoulos, Costas. "Extrinsic rewards, intrinsic motivation and voting." *Journal of Politics* 75.1 (2013): 266–280.

[50] Alm, James. "What motivates tax compliance?" *Journal of Economic Surveys* 33.2 (2019): 353–388, but see Brockmann, Hilke, Philipp Genschel, and Laura Seelkopf. "Happy taxation: Increasing tax compliance through positive rewards?" *Journal of Public Policy* 36.3 (2016): 381–406.

[51] Fine, Adam, et al. "Rule orientation and behavior: Development and validation of a scale measuring individual acceptance of rule violation." *Psychology, Public Policy, and Law* 22.3 (2016): 314.

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

relationship between rule orientation and offending digital behavior across different enforcement contexts. Our findings suggest that individuals with low rule orientation may be able to justify such offending behavior, regardless of the presence of an explicit enforcement campaign, their perceptions of sanction severity, or their beliefs about the social acceptability of violating the law. These studies highlight the importance of individual differences in rule orientation regarding understanding ethical decision-making, criminal decision-making, and other aspects of legal decision-making.

In a follow-up paper,[52] we focused on national differences in the rule orientation scale. To explore national differences in the OOL, we analyzed data from a survey conducted among a convenience sample (n = 716) of law students in the Netherlands, the United States, Israel, and China. Despite existing research on procedural justice and OOL suggesting potential differences, our data did not reveal significant variations in OOL across these markedly different national populations. This unexpected result prompted us to delve deeper into understanding why no such differences were found and what implications these findings have for our understanding of OOL and compliance more broadly.

Several potential explanations can account for these findings. It's possible that the sense of OOL is more universal than previously thought, transcending national and cultural boundaries. Alternatively, our measures of OOL might not have been sensitive enough to capture subtle cross-cultural differences. The influence of national and cultural factors on OOL might also be counterbalanced by other, more individual-level factors, creating a complex interplay that obscures clear patterns. Furthermore, in an increasingly interconnected world, there might be a convergence of values related to law-abiding behavior across different societies, leading to shared global values that minimize national differences. These various explanations highlight the complexity of understanding OOL in a global context and suggest avenues for further research to disentangle these potential factors. Our joint study contributes to the growing body of research on OOL, which has recently begun to examine the concept as distinct from legitimacy. This renewed interest has led to the development of new measures to capture OOL, with studies examining various influences on OOL, such as procedural justice, impulsivity, morality, values, teacher legitimacy, and parental influence.[53]

CONTENT-RELATED COMPLIANCE MOTIVATIONS

In this section, we outline compliance motivations that are related to the specific content of the law rather than to perceptions of the institution enforcing it.

[52] Van Rooij, Benjamin, et al. "The obligation to obey the law: Exploring national differences." *Crime, Law and Social Change* 82.2 (2024): 415–432.

[53] Fine, et al. "Rule orientation and behavior," 314; Wang, Hongyu, and Yanyan Zhang. "The effects of personality traits and attitudes towards the rule on academic dishonesty among university students." *Scientific Reports* 12.1 (2022): 1–7.

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

Science and Reason-Based Motivations and Intrinsic Voluntary Compliance

In the context of COVID-19, for example, it became clear that at some levels compliance was related to people's understanding that the regulations were based on epidemiological science.[54] People's trust in the science behind the law was crucial to their decision to comply. This is a pure example of intrinsic compliance, where the law is being obeyed because it is the right thing to do (see Figure 0.3).

The second regulatory approach in this context refers to a reason-driven individual. According to this approach, the main assumption about human motivation is that individuals look to regulators to convince them of the wisdom of engaging in constructive and efficient behavior while abstaining from destructive behavior. According to this rational, informational account of the law, the legislative process aggregates information to produce a decision that is superior to the opinion of any individual legislator. As a result, if a legislative body prohibits public smoking, people might be less likely to smoke publicly because the process of enacting the legislation leads people to update their beliefs.[55] Kagan and colleagues have taken a somewhat different view of informative functioning in the context of the environment, where the law clarifies the boundary between activities that are harmful to the environment and activities that should be tolerated.[56] Another context where policymakers have focused on individual information processing is in the creation of traffic laws. In this area, it is common to find informative campaigns that attempt to use scientific knowledge to increase people's positive response to these laws.[57] This model is similar to the 2011 taxonomy of Garry Gray and Susan Silbey regarding how regulators are perceived in various organizations.[58] One of the models, "The regulator as an ally," is based on the perceived expertise and knowledge of regulators by the people they regulate. Recent work by Daphna Lewinsohn-Zamir and colleagues,[59] which was mentioned earlier in this chapter, demonstrates the potential of this idea. They have experimentally examined the effect of nudges, which are basically

[54] Plohl, Nejc, and Bojan Musil. "Modeling compliance with COVID-19 prevention guidelines: The critical role of trust in science." *Psychology, Health & Medicine* 26.1 (2021): 1–12.

[55] Dharmapala, Dhammika, and Richard H. McAdams. "The Condorcet jury theorem and the expressive function of law: A theory of informative law." *American Law and Economics Review* 5.1 (2003): 1–31.

[56] Kagan, Robert A., Neil Gunningham, and Dorothy Thornton. "Explaining corporate environmental performance: How does regulation matter?" *Law & Society Review* 37.1 (2003): 51–90.

[57] Latour, Michael S., and Shaker A. Zahra. "Fear appeals as advertising strategy: Should they be used?." *Journal of Services Marketing* 2.4 (1988): 5–14; also see Tay, Richard. "General and specific deterrent effects of traffic enforcement: Do we have to catch offenders to reduce crashes?" *Journal of Transport Economics and Policy (JTEP)* 39.2 (2005): 209–224.

[58] Gray, Garry C., and Susan S. Silbey. "The other side of the compliance relationship." In *Explaining compliance: Business responses to regulation*, edited by Christine Parker and Vibeke Lehmann Nielsen, Edward Elgar Publishing, 2011: 123–138.

[59] Lewinsohn-Zamir, Zamir, and Katz. "Giving reasons as a means to enhance compliance with legal norms."

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

explanations about why one should obey certain requests, such as why one should not park in certain areas or why one should not throw paper towels down the toilet. Using vignette-based studies, they show that people are more likely to obey when given reasons to do so, compared to situations where no explanations are given.

Social Motivation

Social motivation can be divided into distinct subcategories that have different implications for their ability to maintain voluntary compliance. The rich literature on social norms focuses on the prevailing norms and the effect of both their descriptive and injunctive components on how people behave.[60] When examining the distinction between intrinsic and extrinsic motivation, it is important to note that intrinsic motivation is related to behavioral and social concepts such as solidarity and social identity. Extrinsic motivation, on the other hand, is related to factors such as reputation and social approval. Intrinsic motivation is also related to concepts such as solidarity and social identity.

Intrinsic versus Extrinsic Social Compliance Motivation

As suggested, social norms are among the strongest motivators for behavior. This can be seen as either related to the procedure – in the sense that if most others obey, you should obey too – or as related to the content of the law, where in some contexts the law aligns with the social values people believe in. In these contexts, the law is not related to either correctness or justness, but it does cause people to feel that their social identity will be enhanced if they comply with it.

In this regard, social motivation is a hybrid creature that combines the procedure, which involves how many others are complying, with the content, which involves how similar the social and legal values are. In this case, we seek to examine whether social norms can be viewed as coercive or voluntary and we recognize that laws carry both extrinsic and intrinsic motivational attributes, which can be difficult to distinguish. While extrinsic motivation through social conformity (following laws because others do) plays a role in expressive law, its effectiveness may be limited. This limitation becomes particularly problematic when people underestimate how many others actually comply with the law.[61]

Viewing social norms as external motivators with costs, it is important to consider the concept of altruistic punishment for deviance. This is especially important, as it examines the consequences of deviating from prevailing social norms and how others may punish those who do so. Ernst Fehr and Simon Gachter have argued that people are far less altruistic when they perceive that they are unlikely to receive

[60] See discussion in chapter 3 of Feldman, *The law of good people*.

[61] Cooter, Robert D., Michal Feldman, and Yuval Feldman. "The misperception of norms: The psychology of bias and the economics of equilibrium." *Review of Law & Economics* 4.3 (2008): 889–911.

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

the approval of others for their actions.[62] At the same time, social norms in the legal context have also an intrinsic component related to expressive law, socialization, and internalization, as will be shown in the next section, focusing on understanding social norms in law and economics.

INFORMATIVE EFFECTS OF LAW

Law and economics scholars have applied the informative approach to study social norms and various models of signaling and reputation. These models are mostly captured under the notion of expressive law.[63] Richard McAdams' attitudinal theory of expressive law suggests that enacting laws can solve a pluralistic ignorance problem by clarifying the underlying attitudes of the majority of people in a community or society.[64] According to this approach, people are primarily motivated to obey the law due to their desire to gain the approval of others.

Now looking at Posner's famous model of signaling,[65] we can see that individuals signal to their surroundings by, for example, paying taxes, that they belong to a good group of people.[66] However, even if the law signals to people what the prevailing norms are or what is the right thing to do going forward, it is still necessary for these norms to be seen as representing the majority view. Also, many laws are simply not that popular, at least not at first. This makes relying on social norms in all cases where the law is not popular highly problematic.

In diverse societies, some communities may prioritize their own internal norms over formal laws. Yet many scholarly discussions of social norms overlook this heterogeneity, instead assuming a homogeneous society where norms affect everyone similarly. For example, the underlying message of the works of Robert Scott,[67] Richard McAdams, and Janice Nadler,[68] assumes that there are unified norms. For them,

[62] Fehr, Ernst, and Simon Gächter. "Altruistic punishment in humans." *Nature* 415.6868 (2002): 137–140. For critique on this model Pedersen, Eric J., Robert Kurzban, and Michael E. McCullough. "Do humans really punish altruistically? A closer look." *Proceedings of the Royal Society B: Biological Sciences* 280.1758 (2013): 1–8.

[63] Sunstein, Cass R. "Social norms and social roles." *Columbia Law Review* 96 (1996): 903–968; also see Cooter. "Do good laws make good citizens?," 1577–1601, and McAdams, Richard H. "The focal point theory of expressive law." In *Encyclopedia of law and economics*. Edward Elgar Publishing, 2000: 1650–1701.

[64] McAdams, Richard H. "An attitudinal theory of expressive law." *Oregon Law Review* 79 (2000): 339–390.

[65] Posner, Richard A. "Rational choice, behavioral economics, and the law." *Stanford Law Review* 50 (1997): 1551–1576.

[66] Posner, Eric A. "Law and social norms: The case of tax compliance." *Virginia Law Review* 86 (2000): 1781–1820.

[67] Scott, Robert E. "The limits of behavioral theories of law and social norms." *Virginia Law Review* 86 (2000): 1603–1648.

[68] McAdams, Richard H., and Janice Nadler. "Coordinating in the shadow of the law: Two contextualized tests of the focal point theory of legal compliance." *Law & Society Review* 42.4 (2008): 865–898.

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

the main problem is that people are not always aware of them and only the expressive function of the law reveals to them what the majority of people are thinking.

While discussions of law often focus on social identity and values, not all laws connect directly to people's core beliefs and the role of intrinsic motivation can vary significantly depending on the type of law in question. It could be that intrinsic motivation is even more important for laws that affect people's daily lives than for laws that are obeyed less frequently, where the interaction with the state is on a more legal footing and thus easier to monitor.

As we will show in further discussion, many working in this field assume that social norms are operative only when they are the prevailing norms. One notable example of this is Cristina Bicchieri's philosophical analysis of the function and importance of social norms.[69]

SOCIAL NORMS AS INTRINSIC MOTIVATION?

In examining how laws can influence social norms, we need to explore whether these norms operate through intrinsic motivation – such as group identity and the need to belong – or through extrinsic factors like the fear of shaming and social disapproval.

Social norms are often viewed as an important contributor to compliance in many studies. However, they are not necessarily part of intrinsic motivation, which is often driven by internal factors. In contrast, social norms are far more related to external forces, such as social punishment and shame.[70]

Prevailing social norms have been shown to be highly important in the context of normative messages. For example, a field study examining the effectiveness of signs requesting that guests participate in an environmental conservation program found that it was possible to encourage hotel guests to care more about their environmental footprints. This field experiment, alternating different signs in a hotel regarding towel usage, found that people are more likely to comply with appeals that use descriptive norms rather than with traditional appeals.[71] However, when communicating to people what the norms are, especially in field experiments, it becomes unclear what leads to the change, especially with respect to norms. People often internalize social norms, transforming what is considered acceptable behavior into personal preferences and desires. This process of internalization means that

[69] Bicchieri, Cristina. *Norms in the wild: How to diagnose, measure, and change social norms*. Oxford University Press, 2016.

[70] Kahan, Dan M. "The secret ambition of deterrence." In *Deterrence*, edited by Thom Brooks, Routledge, 2019: 409–496.

[71] Goldstein, Noah J., Robert B. Cialdini, and Vladas Griskevicius. "A room with a viewpoint: Using social norms to motivate environmental conservation in hotels." *Journal of Consumer Research* 35.3 (2008): 472–482.

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

individuals may come to genuinely want to engage in behaviors that align with societal expectations, rather than merely complying out of external pressure. Along these lines, some studies have examined whether social norms continue to influence behavior even under conditions of complete anonymity.[72]

At the same time, it is important to recognize studies on socialization,[73] which show that social norms become part of an individual's identity.[74] If people behave as they think people in their social role and status need to behave, does this mean that are doing so for intrinsic reasons? Is their behavior related to the action itself? Clearly, theories of signaling indicate that such motivation can be considered extrinsic.[75] But can a situation in which the behavior is seen as socially expected of someone in a certain position, but where they receives no reward from the behavior itself, be explained?

Among the researchers studying social norms, Cristina Bicchieri, mentioned earlier, is one of the leading scholars.[76] In her influential book,[77] *The Grammar of Society*, she argues that for a norm to exist, a sufficient number of people must believe that it pertains to a given type of situation and enough people must behave according to that norm. According to Bicchieri, norm compliance depends on a conditional preference to cooperate, depending on whether others will cooperate as well.

In a later book,[78] she takes a more behavioral and experimental approach and attempts to examine how it is possible to change people's expectations of the behavior of others. In this book too, she finds that the most important factor influencing the likelihood of change is the expectation of others' behavior.

What is important in her work is the notion of conditional preferences, which breaks down the intrinsic extrinsic divide upon which much of this book is built.[79]

[72] Cooter, Robert D. "Three effects of social norms on law: Expression, deterrence, and internalization." *Oregon Law Review* 79 (2000): 1–22; also see Gavrilets, Sergey, and Peter J. Richerson. "Collective action and the evolution of social norm internalization." *Proceedings of the National Academy of Sciences* 114.23 (2017): 6068–6073; Etzioni, Amitai. "Social norms: Internalization, persuasion, and history." *Law & Society Review* 34.1 (2000): 157–178; and Crandall, Christian S., Amy Eshleman, and Laurie O'Brien. "Social norms and the expression and suppression of prejudice: The struggle for internalization." *Journal of Personality and Social Psychology* 82.3 (2002): 349–378.

[73] Robert B. Cialdini and Melanie R. Trost. "Social influence: Social norms, conformity, and compliance." In *The handbook of social psychology*, edited by D. T. Gilbert, S. T. Fiske, and G. Lindzey, McGraw-Hill, 1998: 151–192.

[74] Bicchieri, Cristina, Ryan Muldoon, and Alessandro Sontuoso. "Social norms." In *The Stanford encyclopedia of philosophy*, edited by Edward N. Zalta and Uri Nodelman, Stanford University Press, 2018.

[75] Posner. "Law and social norms," 1781.

[76] E.g., see Hansson, Sven Ove. *The dynamics of norms*, edited by Cristina Bicchieri, Richard Jeffrey, and Brain Skyrms, Cambridge University Press, 1997; see also Kelly, Daniel, and Taylor Davis. "Social norms and human normative psychology." *Social Philosophy and Policy* 35.1 (2018): 54–76.

[77] Bicchieri, Cristina. *The grammar of society: The nature and dynamics of social norms*. Cambridge University Press, 2005.

[78] Bicchieri. *Norms in the wild*.

[79] Bicchieri, Cristina. "Norms, preferences, and conditional behavior." *Politics, Philosophy & Economics* 9.3 (2010): 297–313.

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

According to her analysis, people's desires and behaviors are influenced by their expectations of others' actions. This suggests that intrinsic motivation is not static, but rather dynamic and socially influenced. In other words, what people "want" to do is shaped by their perceptions of social norms and expectations.

SOCIAL NORMS AS A BEHAVIORAL INTERVENTION

Many studies have been conducted to determine the effectiveness of using social norms to increase compliance. For example, Shahar Ayal and his coauthors conducted a field experiment to test cues to encourage people to pay for public transportation, a prevailing social norm.[80] Two experiments were conducted in two railroad stations in France to study the impact of watching eye cues and descriptive social norm messages on fare evasion. The results from both studies suggest that watching eye cues alone is not effective in a crowded train station. However, exposing passengers to watching eye cues together with a descriptive social norm messaging campaign reduced the fare evasion rates observed by standard inspection operations. This approach also eliminated lying behavior measured by the die-under-cup paradigm, which enables researchers to investigate how people behave in situations where they can cheat without any associated risk.[81]

Competing Intrinsic Accounts of Social Motivation

A more intrinsic view of social norms, which is distinct from the research associated with Robert Cooter and other law and economics scholars, is related to group effects.[82] Behaving as others do is not related to the information or costs.[83] The importance of group identity and the individual's need to belong is beyond debate in psychology.[84] Group identity motivation is widely recognized in the social dilemma context as a way to counteract the self-interest of the individual.[85] In the context of

[80] Ayal, Shahar, Jérémy Celse, and Guy Hochman. "Crafting messages to fight dishonesty: A field investigation of the effects of social norms and watching eye cues on fare evasion." *Organizational Behavior and Human Decision Processes* 166 (2021): 9–19.

[81] Shalvi, Shaul, et al. "Justified ethicality: Observing desired counterfactuals modifies ethical perceptions and behavior." *Organizational Behavior and Human Decision Processes* 115.2 (2011): 181–190.

[82] See, for example, Cooter. "Three effects of social norms on law," 1.

[83] Jackson, Jay W. "Reactions to social dilemmas are influenced by group identification motives." *Advances in Psychology Research* 16 (2002): 167–183.

[84] Baumeister, Roy F., and Mark R. Leary. "The need to belong: Desire for interpersonal attachments as a fundamental human motivation." *Psychological Bulletin* 117.3 (1995): 497–529.

[85] Brewer, Marilynn B., and Roderick M. Kramer. "Choice behavior in social dilemmas: Effects of social identity, group size, and decision framing." *Journal of Personality and Social Psychology* 50.3 (1986): 543–549. Also see Jackson, Ronald L. "Cultural contracts theory: Toward an understanding of identity negotiation." *Communication Quarterly* 50.3–4 (2002): 359–367.

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

public goods, Jean-Robert Tyran and Lars Feld have demonstrated through experiments that people are conditional cooperators and want to engage in legal compliance when they have a reason to believe that others will do the same.[86] Dan Kahan has suggested a different nonidentity view for why people care about what others are doing. According to his approach, the individual needs to believe that other members of society share their commitment to the law to maintain their commitment to society and its rules.[87] The focus is not on reputation or identity but rather on the fear of being the only "sucker" who obeys the law.

When considering various accounts of social norms, it's crucial to remember that even the most noninstrumental interpretations may not align with the original concept of intrinsic motivation. These norms might not be considered intrinsic to the act itself. With this understanding, we now turn our attention to exploring justice motivation

JUSTICE-BASED MOTIVATIONS

In addition to social motivation, there is another type of motivation that assumes that an individual is mainly motivated by morality and fairness. Given the assumed care for morality by the individual, legal policymakers should design laws in a way that emphasizes their moral virtue, namely the potential harm to others that would be prevented by compliance.[88]

Distributive Justice

A motivation for justice is one of the most fundamental intrinsic motivations for compliance.[89] Within the concept of fairness, several subconcepts have received considerable attention in the literature. One of the well-known distinctions in this context is between procedural and distributive justice. Distributive justice focuses on the substance of the law. People are more likely to comply with the law when they believe that, under the law, individuals get what they are entitled to or the punishment that they deserve.[90] While distributive justice is a highly studied concept

[86] Tyran, Jean-Robert, and Lars P. Feld. "Why people obey the law: Experimental evidence from the provision of public goods." Available at SSRN 290231 (2002). https://papers.ssrn.com/sol3/papers.cfm?abstract_id=290231.

[87] Kahan, Dan M. "Trust, collective action, and law." *Boston University Law Review* 81 (2001): 333–348.

[88] Tapp, June L., and Felice J. Levine. "Persuasion to virtue: A preliminary statement." *Law and Society Review* (1970): 565–582. Also see Robinson, Paul H., and John M. Darley. "Testing competing theories of justification." *North Carolina Law Review* 76 (1997): 1095–1144.

[89] Fehr, Ernst, and Klaus M. Schmidt. "A theory of fairness, competition, and cooperation." *Quarterly Journal of Economics* 114.3 (1999): 817–868; also see Kahneman, Daniel, Jack L. Knetsch, and Richard Thaler. "Fairness as a constraint on profit seeking: Entitlements in the market." *American Economic Review* (1986): 728–741.

[90] See generally, Darley, John M., Paul H. Robinson, and Kevin M. Carlsmith. "The ex-ante function of the criminal law." *Law & Society Review* 35 (2001): 165–189.

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

in law, philosophy, and related topics, it has not been very central to the study of compliance. This may be because many compliance decisions do not involve real distributive justice issues. However, there are certainly issues of distributive justice in many contexts such as taxes, torts, and contracts. In addition, there is a significant similarity between the impact of morality, which is widely studied, and distributive justice on an individual's motivation to comply.

MORALITY AS INTRINSIC MOTIVATION?

Another limitation of current research on intrinsic motivation is related to the question of how the type of motivation interacts with the likelihood of internalization. In many ways, morality is seen as a type of motivation that comes from within the individual. Once the moral norm is in place, there is no need to look for external motivation. It is also considered a more effective and sustainable form of compliance.[91] In an online field experimental study conducted on a large sample, moral framing was found to be the most effective way to encourage people to perform an undesirable task following previous commitment, while the legal frame was found to be the least effective.[92] Lawrence Friedman's 2016 book, *Impact: How Law Affects Behavior*, emphasizes three key factors that influence law's effect on behavior. He distinguishes between extrinsic factors, such as rewards and peer pressure, and factors related to intrinsic motivation, which operate through communication and include elements like conscience, legitimacy, and morality.[93] However, the main problem with looking at morality as intrinsic motivation is that it does not necessarily relate to the actual behavior that one needs to comply with. For instance, people may feel a moral obligation to behave in a particular manner, not because of anything related to the behavior itself, but rather to maintain their self-image as compliant individuals or to avoid being free riders. Additionally, morality is highly connected to guilt and people might comply not because of the action, but because of the fear of feeling guilty for not complying.[94] It is not clear whether, under the classical account of intrinsic motivation, behaving to avoid feeling guilty could be seen as internal or external to the self.

Procedural Justice

Procedural justice is a concept that focuses on the impact of how decisions are made and its effect on compliance as intrinsic motivation rather than the content of the

[91] Frey and Torgler. "Tax morale and conditional cooperation."

[92] Eigen, Zev J. "When and why individuals obey contracts: Experimental evidence of consent, compliance, promise, and performance." *Journal of Legal Studies* 41.1 (2012): 67–93.

[93] Friedman. *Impact: How law affects behavior*.

[94] Boster, Franklin J., et al. "A meta-analytic review of the effect of guilt on compliance." *Social Influence* 11.1 (2016): 54–67.

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

decision or the law itself.[95] It considers the importance of neutrality and voice in the decision-making process. This concept has been extensively studied in the field of psycho-legal scholarship. Starting with the work of scholars such as John Thibaut and Laurens Walker, E. Allan Lind and Tom Tyler, and G. S. Leventhal and colleagues,[96] a list of requirements has been suggested that need to be satisfied for people to experience procedural justice. These include consistency, accuracy, and representativeness. The concept of procedural justice has both instrumental and intrinsic value, even without considering its effect on legitimacy. One of the leading scholars who has explored the contribution of procedural justice legal compliance is Tom Tyler.[97] In his widely cited book, *Why People Obey the Law*, Tyler suggests that procedural fairness – the way people are treated by authorities – is the main motivation for legal compliance.[98] The unique contribution of morality to legal compliance has been demonstrated in various legal contexts, even in areas that are usually viewed as economic ones, such as taxation.[99] The view that procedural justice is extrinsic to the decision to comply may be related not only to the fact that it is associated with the system behind the law, rather than the content of the law, but also to the mechanism it employs.

The information heuristics approach is a paradigm that could mostly supports the instrumental view.[100] This approach suggests that procedural justice enhances compliance by helping people understand the law's true content. Rather than valuing procedural fairness for its own sake, people use it as a proxy to assess whether the law itself will be fair. While this view of procedural justice is instrumental in relation to outcomes, it can still generate intrinsic motivation to obey the law – a motivation that exists independently of monitoring or external incentives. The group-based approach to procedural justice emphasizes the importance of feeling a sense of belonging and being treated with dignity as a valued member of the group,

[95] Walters, Glenn D., and P. Colin Bolger. "Procedural justice perceptions, legitimacy beliefs, and compliance with the law: A meta-analysis." *Journal of Experimental Criminology* 15 (2019): 341–372.

[96] Thibaut, John W., and Laurens Walker. *Procedural justice: A psychological analysis*. L. Erlbaum Associates, 1975; Lind, E. Allan, and Tom R. Tyler. *The social psychology of procedural justice*. Springer Science & Business Media, 1988; Leventhal, Gerald S., J. Karuza and W. R. Fry. "Beyond fairness: A theory of allocation preferences." In *Justice and social interaction*, edited by Gerold Mikula, Springer-Verlag, 1980: 167–218.

[97] Tyler, Tom R. "Justice, self-interest, and the legitimacy of legal and political authority." In *Beyond self-interest*, edited by J. J. Mansbridge, University of Chicago Press, 1990: 171–179; also see Brockner, Joel, Tom R. Tyler, and Rochelle Cooper-Schneider. "The influence of prior commitment to an institution on reactions to perceived unfairness: The higher they are, the harder they fall." *Administrative Science Quarterly* 37.2 (1992): 241–261.

[98] Tyler, Tom R. *Why people obey the law*. Princeton University Press, 2006.

[99] Wenzel, Michael. "Motivation or rationalisation? Causal relations between ethics, norms and tax compliance." *Journal of Economic Psychology* 26.4 (2005): 491–508.

[100] Lind, E. A., K. Van den Bos, and H. A. Wilke. "The psychology of procedural and distributive justice viewed from the perspective of fairness heuristic theory." In *Justice in the workplace: From theory to practice*, edited by R. Cropanzano, Psychology Press, 2001: 49–66.

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

whether at the organizational or state level.[101] This focus on group membership and respect shifts the concept of procedural justice in law from a purely instrumental view to one that incorporates social and psychological elements.

While this approach is not strictly instrumental, it does introduce an element that could be seen as extrinsic to the law itself. The content of the law, which is usually what will be seen as intrinsic compliance motivation when speaking, for example, on tax morale and environmental motivation, is no longer the sole issue; instead, the focus is on how the law and its procedures make people feel about their place in the group. People are more likely to obey procedurally just laws not only because of the laws' content, for example, taxes are low or the environment should be protected, but because the process makes them feel respected and included in the community, rather than alienated from it.[102]

This perspective suggests that procedural justice in law operates on both intrinsic and extrinsic levels: intrinsic in its concern with fair processes and extrinsic in its consideration of group dynamics and individual feelings of belonging. The result is a more nuanced understanding of why people comply with the law, one that bridges legal, psychological, and sociological perspectives.

LEVI'S APPROACH TO VOLUNTARY COMPLIANCE

Margaret Levi and her coauthors have proposed an important approach to procedural justice in the context of compliance that focuses on legitimacy and voluntary compliance.[103] In their work, they focus on an important aspect related to the book – "quasi-voluntary" compliance. This type of compliance is related to a combination of coercion and consent and is conditional upon the government behaving in a trustworthy way. Generally speaking, Levi and her colleagues have made several important contributions to our understanding of how trust influences public cooperation.[104] Of particular relevance to this book is their nuanced analysis of the complex relationship between trust and various forms of social and political cooperation.[105] Their work explores how trust not only encourages cooperation but also how cooperative behaviors can, in turn, build and reinforce trust, creating a dynamic feedback loop in social and political interactions.

[101] Sunshine, Jason, and Tom Tyler. "Moral solidarity, identification with the community, and the importance of procedural justice: The police as prototypical representatives of a group's moral values." *Social Psychology Quarterly* 66.2 (2003): 153–165.

[102] Tyler, Tom R., and Steven L. Blader. "The group engagement model: Procedural justice, social identity, and cooperative behavior." *Personality and Social Psychology Review* 7.4 (2003): 349–361.

[103] Levi, Margaret, and Audrey Sacks. "Legitimating beliefs: Sources and indicators." *Regulation & Governance* 3.4 (2009): 311–333.

[104] Levi, Margaret, and Laura Stoker. "Political trust and trustworthiness." *Annual Review of Political Science* 3.1 (2000): 475–507.

[105] Levi, Margaret. *Consent, dissent, and patriotism*. Cambridge University Press, 1997.

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

Levi discusses two strands in the research: One strand includes political trust, trustworthy government, and citizen compliance; while the other strand includes political trust, social trust, and cooperation, which in her work, usually means working with others. However, as this book endeavors to emphasize, cooperation might also be related to how people behave regarding the requirements of the state, as in the case of environmental regulation, where some of the requirements are really a matter of cooperation, rather than compliance. For example, when the government tries to encourage people to cooperate in contexts such as using public transportation or buying electric cars, it is not possible to talk about compliance, let alone force them to comply. When analyzing the value of voluntary compliance, we need to consider the importance of cooperation. If we recognize that cooperation is more common than compliance, as is the case in some aspects of environmental cooperation, then we might have a greater need for cooperation (see Figure 0.2).

In a different study Margaret Levi and colleagues,[106] focus on "willing compliance"; they suggest that this is mostly related to factors of legitimacy and procedural justice.[107] Another study in which Levi was involved relied on two datasets (one from the United States and one from sub-Saharan Africa).[108] It indicated that legitimacy affects compliance and that it's influenced by perceived trustworthiness, which in itself is built upon factors such as perception of leadership motivations, administrative competence, and government performance. The authors analyzed the extent to which citizens perceive that the government upholds procedural justice. While conducting cross-sectional analyses, they found that citizens' judgments about the government are strongly influenced by procedural justice. This finding is important because it suggests that procedural justice is a significant predictor of both types of legitimacy, value-based and behavior-based, which are connected to compliance. This work suggests that the way governments exercise their authority influences their legitimacy and their shape. However, this work has been mostly criticized for the lack of experimental evidence actually showing that procedural justice has indeed improved the quality of compliance.[109]

There is an impressive body of research supporting the importance of procedural justice in various contexts.[110] As reviewed so far, numerous studies have demonstrated

[106] Levi, Margaret, Audrey Sacks, and Tom Tyler. "Conceptualizing legitimacy, measuring legitimating beliefs." *American Behavioral Scientist* 53.3 (2009): 354–375.

[107] For further discussion of the relationship between procedural justice, legitimacy and compliance see Levi, Margaret, Tom R. Tyler, and Audrey Sacks. "The reasons for compliance with law." In *Understanding social action, promoting human rights*, edited by Ryan Goodman, Derek Jinks and Andrew K. Woods, Oxford University Press, 2012: 70–99.

[108] Levi, Tyler, and Sacks. "The reasons for compliance with law."

[109] Nagin, Daniel S., and Cody W. Telep. "Procedural justice and legal compliance: A revisionist perspective." *Criminology & Public Policy* 19.3 (2020): 761–786.

[110] Folger, Robert, and Jerald Greenberg. "Procedural justice: An interpretive analysis of personnel systems." In *Research in personnel and human resources management*. Vol. 3, edited by K. Rowland and G. Ferris, JAI Press, 1985: 141–183.

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

strong links between perceptions of procedural fairness and compliance with laws and regulations. However, some recent research has challenged the extent of this relationship, suggesting that the connection between procedural justice and compliance may not be as straightforward as previously thought.[111]

While these studies provide valuable insights into the role of procedural justice in shaping behavior, they offer limited understanding of voluntary compliance beyond self-reported intentions to obey the law. This gap highlights the need for further research to explore the mechanisms underlying voluntary compliance and how it relates to perceptions of procedural justice.

The assumption that people's compliance will be better if they have legitimate reasons for complying is very plausible, but for the most part, it has not been proven experimentally, thus limiting inferring causality.[112] As suggested in Chapter 1, the main advantage of such compliance is that it is less dependent on extrinsic reasons, making it more likely to be long term and sustainable. However, it is important to note that research into organizational context and performance has usually associated intrinsic motivation with quality of performance and extrinsic motivation with quantity of performance.[113] Based on this distinction, it is possible to speculate that a similar effect will happen with regard to compliance. Naturally, when people comply only to avoid punishment, they may focus only on behaviors that can be monitored. These usually emphasize quantitative aspects of compliance rather than its qualitative aspects.[114]

THE ADVANTAGE OF PROCEDURAL JUSTICE IN GENERATING INTRINSIC VOLUNTARY COMPLIANCE

Procedural justice is more likely to be related to the next model, which focuses not on the content of the law but on the institution. Procedural justice focuses on how laws are created rather than their content, representing one of two key pathways to achieving voluntary compliance. One is through the morality of the action and the other is through trust in the state. The second option is clearly easier and may be more appealing to a broader consensus of the population. It is difficult to imagine a situation where everyone agrees on a particular law. In that regard, even the effect of reason giving, which is seen as part of allowing people to feel that they

[111] Walters and Bolger. "Procedural justice perceptions, legitimacy beliefs, and compliance with the law."

[112] Murphy, Kristina, Lorraine Mazerolle, and Sarah Bennett. "Promoting trust in police: Findings from a randomised experimental field trial of procedural justice policing." *Policing and Society* 24.4 (2014): 405–424.

[113] Cerasoli, Christopher P., Jessica M. Nicklin, and Michael T. Ford. "Intrinsic motivation and extrinsic incentives jointly predict performance: A 40-year meta-analysis." *Psychological Bulletin* 140.4 (2014): 980–1008.

[114] Compare with the argument made in Feldman, Yuval, and Doron Teichman. "Are all legal probabilities created equal?" *New York University Law Review* 84 (2009): 980–1022.

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

understand the law, might also be perceived as some sort of procedural fairness. By simply explaining what it is doing, the authorities manage to show the public that they care about them. The state need not create laws where the content is approved by the public.

LEGITIMATE LAWS AND MORAL MOTIVATION

Legislation must be responsive to human motivation and its legitimacy is the main feature that ensures this. Legitimacy is often defined as the perception that the law was formulated and executed with full authority and it is more important than the content of the law itself.[115] The distinction between moral individual and immoral rule models becomes problematic since rules that violate people's moral principles are inherently unlikely to be viewed as legitimate. However, there appears to be a real difference between obeying the law because the government has the power to force people to do so. Indeed, within the concept of legitimacy, some scholars focus more on the legalistic and institutional perspectives, while others give more weight to the content of the law. Jeffrey Fagan and Tom Tyler discuss the gap between the various perspectives of legitimacy, demonstrating the differences between legitimacy's sociological, legal, and moral aspects.[116]

Along the same lines, it seems that the discussion of citizenship as a mutually exclusive model lies at the heart of the ability to speak about legitimacy as a distinctive concept within the moral nature of the law's content. In many cases, when an individual is obeying the law due to an obligation, rather than due to a belief in the morality of the law, there is a greater chance that that the individual will obey the law, even when they do not fully agree with its content.[117] Another study demonstrated how institutional actions can result in conflict and resistance when institutions prioritize perpetuating their authority and technical expertise over meeting the social and developmental needs of individuals.[118]

TRUST AS COMPLIANCE MOTIVATION

One of the most discussed concepts within the area of regulatory governance relates to trust. Trust is usually seen as a replacement for coercion, with the focus being on encouraging people to want to comply rather than forcing them to do so. On the

[115] Jackson et al. "Why do people comply with the law?"
[116] Tyler, Tom R., and Jeffrey Fagan. "Legitimacy and cooperation: Why do people help the police fight crime in their communities?" *Ohio State Journal of Criminal Law* 6 (2008): 231–276.
[117] Jackson et al., "Why do people comply with the law?"
[118] Losoncz, Ibolya. "Responses to institutional disrespect." In *Institutional disrespect: South Sudanese experiences of the structural marginalisation of refugee migrants in Australia*, Palgrave Pivot, 2019: 115–133.

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

other hand, it is also possible to argue that trust in institutions is not related to the behavior itself, but to the ability of citizens to believe that requests from those institutions are legitimate. Obeying a legal ordinance because one believes that the institution is functioning well and is professional, and therefore deserves trust, could be seen as noncoerced behavior. However, it does not necessarily mean that the person wants to behave in that way. The behavior itself may not be what the person wants, but rather they are acting in this way because the institution has asked them to.

A demonstration of that complexity can be seen in classical studies by K. Murphy, who has shown how trust can be considered an alternative to coercion. Murphy argues that using threats and coercion are ineffective in inducing compliance.[119] Using survey data collected from 2,292 taxpayers accused of tax avoidance, she demonstrated that variables such as trust need to be considered when managing noncompliance. If regulators are seen to be acting fairly, people will trust the motives of that authority and defer to their decisions voluntarily. Pautz and Wamsley have also studied the interaction between regulators and those they regulate, and have emphasized the importance of trust being developed between the two groups to ensure effective regulation.[120]

When we focus on the effect of trust as an alternative to control and deterrence, we must consider the ability of trust and deterrence to operate together. This issue is critical because it is difficult for states to base their policy on trust, given the fact that so many people are less likely to be affected by it. The attempt to simultaneously use both trust and deterrence is problematic because of the crowding-out argument. However, Andreas Glöckner and colleagues conducted studies that showed that both trust and deterrence had independent contributions to both legitimacy and deterrence, in addition to other factors.[121] Overall, their findings support the predictive power of all relevant factors, including legitimacy, self-control, and deterrence. Thus, trust is related to both legitimacy and to the functioning of deterrence.

The relationship between trust and motivation in the context of cooperation with a system is complex. Trust can be seen as an intrinsic motivator for cooperation because it originates from within the individual rather than from external rewards or punishments (see Figure 0.3). When people trust a system, their motivation to cooperate stems from this internal sense of trust rather than from external factors. This intrinsic nature of trust-based motivation distinguishes it from extrinsic motivations,

[119] Murphy, Kristina. "The role of trust in nurturing compliance: A study of accused tax avoiders." *Law and Human Behavior* 28 (2004): 187–209.

[120] Pautz, Michelle C., and Carolyn Slott Wamsley. "Pursuing trust in environmental regulatory interactions: The significance of inspectors' interactions with the regulated community." *Administration & Society* 44.7 (2012): 853–884.

[121] de Puiseau, Berenike Waubert, Andreas Glöckner, and Emanuel V. Towfigh. "Integrating theories of law obedience: How utility-theoretic factors, legitimacy, and lack of self-control influence decisions to commit low-level crimes." *Judgment and Decision Making* 14.3 (2019): 318–334.

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

which are driven by external rewards or penalties. However, if the discussion is related to legal compliance, then trust in the system could be seen as an extrinsic reason to comply with the law, since trust is not related to the content of the law but rather to the system. This is different from trust in science, which is intrinsic: I take the vaccine because I believe it is good for my health.

A valuable conclusion can be drawn from research on trust by comparing it with the literature on intrinsic motivation and morality. The state faces many challenges in getting people to internalize that compliance is the moral thing to do, as not all acts of the state can be seen as such. However, trust, which is a much broader concept than just procedural justice and legitimacy, can be seen as a standard that states should aspire to maintain.

Essentially, it is easier to devise a legal theory that requires the state to earn the trust of the public. It is less likely that we can ask the state to ensure that everyone is convinced that they want to do what the state requires them to do. According to our typology, citizenship is the motivation behind why people comply – because they feel it is their duty. This is highly dependent on issues such as trust and legitimacy, and less so on morality and the content of the particular laws.

In this regard, approaches by regulators that provide reasons might be seen as more relevant for content than for procedure, although the two are clearly connected. If people cannot understand the rationale behind a certain legal requirement, they might come to question whether the state is trustworthy. Thus, it could be that it is more important for the state to explain things than to give people rationales.

MOTIVATIONAL POSTURES PARADIGM

Building on theories of procedural justice and legitimacy, the concept of motivational postures offers a broader understanding of what drives compliance. In their famous research on motivational postures, Valerie. Braithwaite, Kristina Murphy, and Monika Reinhart argue that the most effective regulatory outcome is achieved when the regulatory process can dampen the "taking control" and "feeling oppressed" sensibilities and strengthen the "thinking morally" sensibility.[122]

It is interesting to note that the motivational posture paradigm theory is very much related to the argument we made regarding procedural justice and legitimacy as being external to the law. This paradigm also focuses on the relationship with the system, rather than the law, making it extrinsic to the law itself. However, as suggested, some postures – as presented by Valerie Braithwaite – are consistent with motivation not being driven through processes of coercion. Braithwaite introduced the concept of motivational postures, which are signals that people send

[122] Braithwaite, Valerie, Kristina Murphy, and Monika Reinhart. "Taxation threat, motivational postures, and responsive regulation." *Law & Policy* 29.1 (2007): 137–158.

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

to authorities to indicate their willingness to comply with the authority's rules. Braithwaite identified five different motivational postures – commitment, capitulation, resistance, disengagement, and game playing.[123]

Some scholars have tried to use Braithwaite's motivational posturing framework to explain individuals' reactions to authorities.[124] This framework was also applied in the context of Australian agriculture and environmental regulation.[125] Postures were predictive of beyond-compliance behavior. While some were more likely to undertake beyond-compliance behaviors, the "gamers" were the least likely to do so.[126] Another study examined the perceptions of regulators and the regulated toward regulatory encounters in order to predict subsequent compliance with nursing home quality-of-care standards.[127] The argument was made in another study that self-determination theory may improve how the relation between trust and control is conceptualized in the dominant responsive regulation theory.[128]

The main problem with this approach, from the perspective of this book, is that it is not clear what the likelihood is that such a posture will stay stable over time, or how much of it is dependent upon the specifics of a legal ordinance. Moreover, in order to explore the theme of this book, it is important to examine the antecedents of posture, what sustains it, and the extent to which intrinsic motivation is connected to it. Can one's state of mind really affect one's posture?

This line of research suggests that gaining voluntary compliance is complicated because regulators must tailor their interventions to the level of intrinsic motivation of the people they are trying to regulate. The ability to tailor regulatory approaches to people's level of intrinsic motivation requires some indication of their level of motivation, as well as knowledge of how they behave.

[123] Braithwaite, Murphy, and Reinhart. "Taxation threat, motivational postures, and responsive regulation."

[124] Murphy, Kristina. "Turning defiance into compliance with procedural justice: Understanding reactions to regulatory encounters through motivational posturing." *Regulation & Governance* 10.1 (2016): 93–109.

[125] A mail survey of 5,235 farmers across Australia was conducted to examine motivational postures and attitudes to government, environmental problems, environmental laws and regulations, and farm management behaviors. Four postures were empirically derived: one associated with compliance, here labeled "Aligned," and three associated with non- or creative compliance: one Disengaged, one Game playing, and one Resistant. Motivational postures were related to place, jurisdiction, and degree of regulatory alignment: the degree of agreement between regulatees and regulators on the latter's role and on the content, process, and aims of regulatory interventions.

[126] Bartel, Robyn, and Elaine Barclay. "Motivational postures and compliance with environmental law in Australian agriculture." *Journal of Rural Studies* 27.2 (2011): 153–170.

[127] Braithwaite, John, and Toni Makkai. "Trust and compliance." *Policing and Society: An International Journal* 4.1 (1994): 1–12.

[128] See Weibel, Antoinette, and Frédérique Six. "Trust and control: The role of intrinsic motivation." In *Handbook of advances in trust research*, edited by Reinhard Bachmann and Akbar Zaheer, Edward Elgar Publishing, 2013: 57–81; see also Barak-Corren, Netta, and Yael Kariv-Teitelbaum. "Behavioral responsive regulation: Bringing together responsive regulation and behavioral public policy." *Regulation & Governance* 15 (2021): S163–S182.

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

Habit Formation and Voluntary Compliance

When discussing the different motivations for behavioral compliance, it is important to account for the role of habits in voluntary compliance. That is because many scholars have suggested that it is one of the best ways to lead to sustainable behavioral change. Although not the focus of the book, which attempts to take a motivational approach, it is important to consider the role of habits. Katy Milkman is a highly influential scholar in the field of habit formation. She contends that the best way to achieve behavioral change is to create habits that reduce the need to interact with the person every time cooperation is needed.[129]

This concept aligns closely with Benjamin van Rooij and Adam Fine's argument in their book *The Behavioral Code: The Hidden Ways the Law Makes Us Better or Worse*.[130] They describe how wearing seat belts became a habitual behavior through an intensive process involving various regulatory tools. This process was so effective that it reached a point where people's motivations for wearing seat belts were no longer consciously examined or analyzed.[131]

Thus, most of the focus in the habit formation literature seems to be on getting people to engage in the behavior, with little emphasis on the motivational approach needed to get them there. After the repetition of the action, people will engage in the behavior that is desirable for the state or the organization in a mindless way, whether it involves going to the gym, as Katherine Milkman writes about,[132] or wearing a seat belt as in van Rooije and Fine's mentioned book.[133] It is clear that going to the gym is not enforced like wearing a seat belt, but starting from a certain point, it is supposed to have a similar effect. A similar effort was made during the COVID pandemic when many people began wearing masks. This simple behavior became a habit for many people, as it was easy to do it automatically without thinking about it. Research has shown that the initial motivation for wearing masks originally was less important than the habit of doing it repeatedly.[134] A similar process can be observed, for example, in environmental contexts, such as when recycling becomes a habit.[135]

[129] Milkman, Katherine L., Julia A. Minson, and Kevin G. M. Volpp. "Holding the hunger games hostage at the gym: An evaluation of temptation bundling." *Management Science* 60.2 (2014): 283–299; Staats, Bradley R., et al. "Motivating process compliance through individual electronic monitoring: An empirical examination of hand hygiene in healthcare." *Management Science* 63.5 (2017): 1563–1585.

[130] Van Rooij, Benjamin, and Adam Fine. *The behavioral code: The hidden ways the law makes us better or worse*. Beacon Press, 2021.

[131] This model also targets the socially oriented individual discussed in Chapter 3.

[132] Milkman, Katherine L., et al. "Mega studies improve the impact of applied behavioral science." *Nature* 600.7889 (2021): 478–483.

[133] Van Rooij and Fine. *The behavioral code*.

[134] Li, Tianwen, et al. "Habitual mask wearing as part of COVID-19 control in Japan: An assessment using the self-report habit index." *Behavioral Sciences* 13.11 (2023): 951–963.

[135] Lally, Phillippa, and Benjamin Gardner. "Promoting habit formation." *Health Psychology Review* 7.supp. 1 (2013): S137–S158.

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

Despite the advantages of habit formation, the reliance on this process is not free of problems. When it comes to more complex behaviors, habit formation may be too problematic. This is especially true for very abstract types of behaviors, such as being honest.

The challenge of habit formation in regulatory policy raises several complex questions. First, how can we predict which behaviors will become habits and is it possible to break down complex behaviors into simpler, more manageable actions? Second, there are significant normative concerns: Is it appropriate for states to deliberately cultivate habits in their citizens? While encouraging habits like seat belt use has clear public benefits with minimal impact on autonomy, other behavioral interventions may pose greater challenges to individual freedom. Even from a democratic perspective that prioritizes personal autonomy there's a spectrum to consider – while creating habits around health and safety (like gym attendance or seat belt use) might seem acceptable, extending habit-forming interventions to broader areas of life raises serious concerns about governmental overreach and the normalization of behavioral control.

CONCLUSION

This chapter examines the multifaceted nature of compliance motivations, challenging reductionist approaches to understanding rule-following behavior. By exploring the interplay between intrinsic and extrinsic factors, as well as the nuanced roles of morality, social norms, and procedural justice, the discussion illuminates the complexity of human responses to legal and regulatory frameworks.

The analysis critically evaluates simplistic compliance models, demonstrating how factors such as institutional trust and perceptions of fairness can supersede traditional deterrence mechanisms. Through a rigorous examination of concepts like the obligation to obey and content-dependent motivations, the chapter offers a nuanced exploration of compliance decision-making processes.

This enriches our understanding of voluntary compliance. While existing literature acknowledges the role of intrinsic motivation in fostering voluntary compliance, the analysis reveals significant practical challenges in leveraging this potential. The findings suggest that cultivating trust and ensuring procedural fairness may offer more viable pathways to compliance than attempts to directly influence individual moral paradigms. However, the ongoing scholarly debate regarding the contextual efficacy of various motivational approaches underscores the need for further research in this domain.

This complexity sets the stage for Chapter 3's investigation of the crowding-out phenomenon and its relationship to trust. The forthcoming discussion will examine how well-intentioned regulatory efforts can inadvertently undermine intrinsic motivations. While a simplistic approach might suggest that regulators could combine multiple regulatory strategies to target different compliance motivations, the

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press

crowding-out paradigm reveals the potential impossibility of such an approach. One regulatory mechanism may actively diminish or negate the effectiveness of another, creating a complex paradox that further complicates the design of effective regulatory strategies. This understanding emphasizes the need for sophisticated approaches that account for the intricate dynamics of human motivation and behavior across diverse regulatory contexts.

https://doi.org/10.1017/9781009057998.003 Published online by Cambridge University Press