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Introduction

The idea of citizens' voluntary compliance and cooperative behavior is discussed from different perspectives in nearly all the social sciences (psychology, sociology economics, political science, criminology, and more) as well as in the literature of law and even philosophy.[1] From the outset, it seems safe to argue that obtaining voluntary compliance from citizens, especially if it is intrinsically motivated, is the most desirable and utopic method of governance.[2] However, to a large extent, policymakers feel that in order to trust the public to comply, thereby helping them uphold their commitment to protect the public interest, policymakers need strong assurances that those regulated will indeed behave according to the law. Without clear evidence about the effectiveness of voluntary compliance, policymakers fear they might harm rather than protect the public, potentially achieving worse outcomes and eroding their authority. This creates a prisoner's dilemma between states and their citizens,[3] where regulators adopt suboptimal policies and citizens view regulators as untrustworthy – all because regulators cannot reliably predict when and how the public will cooperate. By and large, much of this deficit is a function of the relatively weak and limited empirical basis of our understanding of when and to what extent people can be trusted in a given situation. As a result, risk-averse policymakers resort to monitoring and coercive measures, simply because it is very challenging to identify in advance the proportion of the public who will engage in

[1] Kirchler, Erich, and Ingrid Wahl. "Tax compliance inventory TAX-I: Designing an inventory for surveys of tax compliance." *Journal of Economic Psychology* 31.3 (2010): 331–346. Tyler, Tom R., and Steven L. Blader. "Identity and cooperative behavior in groups." *Group Processes & Intergroup Relations* 4.3 (2001): 207–226.

[2] 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.

[3] The prisoner's dilemma demonstrates how self-interest, absent communication, leads individuals to choose betrayal over cooperation despite producing worse outcomes for everyone. For an elaboration see Axelrod, Robert. "Effective choice in the prisoner's dilemma." *Journal of Conflict Resolution* 24.1 (1980): 3–25.

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more voluntary forms of cooperation in a given situation.[4] The recent COVID-19 pandemic crisis led some countries to resort to sanctions and fear-based rhetoric to ensure public cooperation and offers an excellent example of the mechanisms and effects of the more coercive process.[5] These coercive measures were employed despite the overwhelming and recognized evidence of the short and long-term advantages of more lenient, less coercive regulatory measures.[6] These have been shown to motivate people to engage in better quality compliance even in areas and contexts in which monitoring is impossible.[7] However, despite these clear advantages of relying on voluntary compliance, regulators across most regulatory domains resort to traditional approaches in more contexts than previously assumed because of what they perceive as the constant risk and lack of precise knowledge regarding the likelihood of cooperation.

Deeper insights into the likelihood and quality of voluntary compliance can help advance the theoretical understanding of the nature of the interaction between democratic governments and their residents. This can also improve policymaking in cases where voluntary cooperation produces better results than coerced compliance or when the tools makers could employ to coerce cooperation are limited, disruptive, or too costly. As an alternative approach, much of the discussion in this book will demonstrate the extent to which voluntary cooperation could and should be sought and the optimal ways to achieve it. The different costs of voluntary compliance in terms of equality, communication, uncertainty, and increased risk to the public will also be explored here. Additionally, the benefits of voluntary compliance in terms of its effect on autonomy, resilience, quality of compliance, and enhanced trust relationships will be discussed as well.[8]

The voluntary compliance paradigm developed here will enable researchers and policymakers to make better informed decisions about when, how, and to what extent states *could* resort to softer regulatory approaches and less coercive measures when trying to change the short and long-term behavior of the public. Since part of the discussion of voluntary compliance is related to intrinsic motivation, where people

[4] Gächter, Simon, Benedikt Herrmann, and Christian Thöni. "Trust, voluntary cooperation, and socio-economic background: Survey and experimental evidence." *Journal of Economic Behavior & Organization* 55.4 (2004): 505–531.

[5] Jørgensen, Frederik, Alexander Bor, and Michael Bang Petersen. "Compliance without fear: Individual-level protective behaviour during the first wave of the COVID-19 pandemic." *British Journal of Health Psychology* 26.2 (2021): 679–696.

[6] Scholz, John T. "Cooperation, deterrence, and the ecology of regulatory enforcement." *Law and Society Review* 18.2 (1984): 179–224.

[7] Krarup, Signe. "Can voluntary approaches ever be efficient?" *Journal of Cleaner Production* 9.2 (2001): 135–144.

[8] Vaughan, Diane. "Autonomy, interdependence, and social control: NASA and the space shuttle challenger." *Administrative Science Quarterly* (1990): 225–257. Findings show that noncompliance with EU Emissions Trading Systems regulations correlates with low levels of trust. See: Jo, Ara. *Trust and compliance: Evidence from the EU emissions trading scheme*. Grantham Research Institute on Climate Change and the Environment, 2019.

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believe in the purpose of the relevant law or regulation, we must examine if states are even allowed to engage in practices that could potentially shift people's intrinsic motivation toward the "desirable" direction. The behavioral analysis of when states can trust members of the public will be accompanied by a normative discussion on when, and to what extent, states *should* do so, given the potential broader effects of such an approach on the public and other players. Clearly, to evaluate these effects, it is important to identify who will cooperate voluntarily and to what extent.[9]

The different chapters of the book will address issues such as what regulatory approach is more likely to elicit voluntary compliance, what could undermine such compliance, and what needs to be done to understand how the individual, situational, regulatory, and cultural dimensions of the behavioral regulatory policy paradigm interact. In addition, we will review and analyze methods balancing the risk to the public of reduced regulatory coercion and monitoring with the potential long-term advantages to the public arising from a cooperative regulatory approach in which deserving regulatees feel trusted. The nature of this analysis is inevitably flexible, as it must adapt to the distinct types of behaviorally based regulatory tools and target different populations with diverse backgrounds and ethical preferences.

REVERSING THE TRUST PARADIGM

In research and policy analysis, "trust" is typically studied in the context of the trust of the public in institutions.[10] This book seeks to reverse the trust paradigm and examine how we can identify ex ante when governments can trust the public and to what extent, and how trust should affect the regulatory style and governments' efforts to foster the public's voluntary cooperation. The apparently unambiguous goal of governments to have their citizens engage in voluntary compliance is examined from different social science perspectives (psychology, social economics, political science, criminology, law, and philosophy).[11]

[9] Compare with Chapter 6 on technological enforcement.

[10] Cook, Timothy E., and Paul Gronke. "The skeptical American: Revisiting the meanings of trust in government and confidence in institutions." *Journal of Politics* 67.3 (2005): 784–803.

[11] For psychology see: Clark, Cory, et al. "Predictors of COVID-19 voluntary compliance behaviors: An international investigation." *Global Transitions* 2 (2020): 76–82; Alm, James, Erich Kirchler, and Stephan Muehlbacher. "Combining psychology and economics in the analysis of compliance: From enforcement to cooperation." *Economic Analysis and Policy* 42.2 (2012): 133–151. For social economics see: Tyler, Tom R. *Why people obey the law*. Princeton University Press, 2006; Kirchler, Erich, Erik Hoelzl, and Ingrid Wahl. "Enforced versus voluntary tax compliance: The 'slippery slope' framework." *Journal of Economic Psychology* 29.2 (2008): 210–225; McKendall, Marie, Beverly DeMarr, and Catherine Jones-Rikkers. "Ethical compliance programs and corporate illegality: Testing the assumptions of the corporate sentencing guidelines." *Journal of Business Ethics* 37 (2002): 367–383. For political science see: Bodea, Cristina, and Adrienne LeBas. "The origins of voluntary compliance: Attitudes toward taxation in urban Nigeria." *British Journal of Political Science* 46.1 (2016): 215–238; Sjöstedt, Martin, and Amanda Linell. "Cooperation and coercion: The quest for quasi-voluntary compliance in the governance of African commons." *World Development* 139 (2021): 105333. For criminology

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To date, the empirical basis of our understanding of when and to what extent the public can be trusted in a given situation is weak both theoretically and normatively. Theoretically, since most of the relevant literature (compliance, ethics cooperation, and more) rarely intersects. Most studies focus narrowly on single behaviors (e.g., recycling) in specific regulatory contexts, failing to examine broader questions about distributive effects across heterogeneous populations or the long-term sustainability of behavioral changes driven by regulation. While meta-analyses suggest that most people are generally honest, this narrow focus limits our understanding of how compliance patterns vary across different contexts and time frames and how regulatory interventions affect different population segments over time.[12] While we now know how to identify the contexts in which self-perceived "good" people can cheat,[13] we still do not know how to accurately predict ex ante in what regulatory contexts such unethicality will dominate.[14] The behavioral public policy literature typically evaluates interventions like nudges and incentives based on their immediate effectiveness.[15] However, it often overlooks crucial dimensions such as population heterogeneity, long-term effects on trust, and variations in compliance quality across different regulatory tools. As a result, risk-averse policymakers resort to monitoring and to coercive measures due to insufficient information about the benefits of voluntary compliance. The costs associated with such approaches include resulting inequality, communication challenges, uncertainty, and increased risk to the public.[16] For example, the recent COVID-19 pandemic led many countries to resort to sanctions and fear-based rhetoric to gain public cooperation following the first signs of noncompliance.[17] These governments had limited ability to understand whether fear-based rhetoric

see: 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; Jackson, Jonathan, and Jacinta M. Gau. *Carving up concepts? Differentiating between trust and legitimacy in public attitudes towards legal authority*. Springer International Publishing, 2016. For law see: Tyler, Tom R., and Jonathan Jackson. "Popular legitimacy and the exercise of legal authority: Motivating compliance, cooperation, and engagement." *Psychology, Public Policy, and Law* 20.1 (2014): 78; Scholz, John T. "Voluntary compliance and regulatory enforcement." *Law & Policy* 6.4 (1984): 385–404; Murphy, Kristina. "Procedural justice and its role in promoting voluntary compliance." *Regulatory Theory: Foundations and Applications* (2017): 43–58. For philosophy see: Gribnau, Hans. "Voluntary compliance beyond the letter of the law: Reciprocity and fair play." In *Building trust in taxation*, edited by B. Peeters, H. Gribnau, and J. Badisco, Intersentia, 2017: 17–49. See also Figure 0.1.

[12] Köbis, Nils C., et al. "Intuitive honesty versus dishonesty: Meta-analytic evidence." *Perspectives on Psychological Science* 14.5 (2019): 778–796.

[13] Feldman, Yuval. *The law of good people: Challenging states' ability to regulate human behavior*. Cambridge University Press, 2018.

[14] Feldman, Yuval, and Yotam Kaplan. "Preference change and behavioral ethics: Can states create ethical people?" *Theoretical Inquiries in Law* 22.2 (2021): 85–110.

[15] Oliver, Adam, ed. *Behavioural public policy*. Cambridge University Press, 2013.

[16] Vaughan. "Autonomy, interdependence, and social control."

[17] Stolow, Jeni A., et al. "How fear appeal approaches in COVID-19 health communication may be harming the global community." *Health Education & Behavior* 47.4 (2020): 531–535.

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actually improved any aspects of compliance, not to mention a lack of knowledge on the possible negative effect on intrinsic motivation.

CURRENT RESEARCH ON VOLUNTARY COMPLIANCE

The existing literature on voluntary cooperation lacks any discussion about how its analysis interacts with regulatory policy or whether it can contribute to a systematic shift in governments' regulatory policies. Much of the compliance literature provides only limited insights into fundamental theoretical questions. While studies explore various concepts – ranging from trust and incentives to behavioral ethics and nudges – they rarely examine how different regulatory interventions affect trust or solidarity over time. In contrast, this book combines regulatory policy theory and behavioral theories to answer the most fundamental question of compliance – when and to what extent should states trust the public to cooperate and what regulatory policies are most likely to foster voluntary compliance? This book's premise is that the motivation to cooperate voluntarily with a regulatory requirement cannot be understood by using only a single perspective (see Figure 0.4). Therefore, behavioral, institutional, and cultural contexts must be combined across many types of doctrines, cultures, and behaviors to help create a regulatory balance that can offer insights into the advantages and disadvantages of striving for voluntary compliance.

As described, one of the hardest challenges in discussing voluntary compliance is spelling out the relevant notion of voluntariness. Another related challenge is to explicate the effect of motivation on the scope of voluntariness. For instance, should we count situations where people are deterred to comply as mere compliance rather than voluntary compliance? What about cases where an individual motivation to comply is instrumental – in that it pays to behave according to what the state wants, or simply harder not to comply?

In this chapter, we will examine the concept of voluntary compliance from multiple perspectives and will briefly review some of the main parts of the existing literature. While some of these bodies of literature will receive more attention in later chapters, our focus at this stage is to provide a broad overview and establish a working definition of the voluntary compliance dilemma.

DIVERSE COMPLIANCE MOTIVATIONS

In the last decade, the regulation literature (compare with Figure 0.3) has been studying softer approaches aimed at reducing the excessive regulatory burden and eliciting voluntary compliance.[18] Two especially relevant paradigms are responsive regulation

[18] Attari, Shahzeen Z., et al. "Preferences for change: Do individuals prefer voluntary actions, soft regulations, or hard regulations to decrease fossil fuel consumption?" *Ecological Economics* 68.6 (2009): 1701–1710.

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and self-regulation. The widely discussed *responsive regulation* paradigm advances a more flexible and customized approach whereby smarter, less coercive regulatory measures are targeted at those parts of the population for whom coercive measures are not needed.[19] The emerging *self-regulation* paradigm focuses on transferring responsibility for the creation of standards and their enforcement to the regulated parties or businesses.[20]

Some of the complexity of the issues around compliance is reflected in the growing research on compliance motivation,[21] in which scholars differ in their perceptions of what can be considered the leading motivation for compliance, whether procedural legitimacy, costs of compliance, deterrence, obligation to obey the law, or political orientation.[22] As part of our conceptual work regarding regulatory theory, we will present an original taxonomy which will examine to what extent voluntary compliance and regulatory tools can be considered *cooperative*. This includes defining, for example, large incentives or System 1 nudges,[23] with a special focus on trust-based and behavioral-based regulation.

[19] Ayres, Ian. *Responsive regulation: Transcending the deregulation debate*. Vol. 35. Oxford University Press, 1992.

[20] Bartle, Ian, and Peter Vass. "Self-regulation within the regulatory state: Towards a new regulatory paradigm?" *Public Administration* 85.4 (2007): 885–905.

[21] Feldman, Yuval. "Five models of regulatory compliance motivation: Empirical findings and normative implications." *Handbook on the Politics of Regulation* 1 (2011): 335–346.

[22] For procedural legitimacy see: Tyler, Tom R. "The psychology of legitimacy: A relational perspective on voluntary deference to authorities." *Personality and Social Psychology Review* 1.4 (1997): 323–345; Tyler, Tom R. "Psychological perspectives on legitimacy and legitimation." *Annual Review of Psychology* 57.1 (2006): 375–400. For costs of compliance see: Botchkovar, Ekaterina V., Charles R. Tittle, and Olena Antonaccio. "General strain theory: Additional evidence using cross-cultural data." *Criminology* 47.1 (2009): 131–176; Donovan, Jenny L., and David R. Blake. "Patient noncompliance: Deviance or reasoned decision-making?" *Social Science & Medicine* 34.5 (1992): 507–513; Paternoster, Raymond, and Sally Simpson. "A rational choice theory of corporate crime." In *Routine activity and rational choice*, edited by Roland V. Clarke and Marcus Felson, Routledge, 2017: 37–58. For deterrence see: Apel, Robert. "Sanctions, perceptions, and crime: Implications for criminal deterrence." *Journal of Quantitative Criminology* 29 (2013): 67–101; Nagin, Daniel S. "Deterrence in the twenty-first century." *Crime and Justice* 42.1 (2013): 199–263. For obligation to obey the law see: 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): 314–329; Posch, Krisztian, et al. "'Truly free consent'? Clarifying the nature of police legitimacy using causal mediation analysis." *Journal of Experimental Criminology* 17 (2021): 563–595; Tyler, Tom. "Procedural justice and policing: A rush to judgment?" *Annual Review of Law and Social Science* 13.1 (2017): 29–53. For political orientation see: Prior, Markus. "Media and political polarization." *Annual Review of Political Science* 16.1 (2013): 101–127; Spohr, Dominic. "Fake news and ideological polarization: Filter bubbles and selective exposure on social media." *Business Information Review* 34.3 (2017): 150–160.

[23] That is, nudges that influence behavior in an implicit manner – such as defaults, which may go entirely unnoticed, as will be explored in Chapter 4. For elaboration see, for example, Van Gestel, L. C., M. A. Adriaanse, and D. T. D. De Ridder. "Do nudges make use of automatic processing? Unraveling the effects of a default nudge under type 1 and type 2 processing." *Comprehensive Results in Social Psychology* 5.1–3 (2021): 4–24.

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Defining regulatory tools based on their level of cooperativeness becomes more complicated because the incorporation of behavioral approaches into regulation has led to a dramatic increase in the variety of regulatory tools available to policymakers (e.g., nudges, framing, pledges, and so on). While the greater number of tools available makes the instrument choice dilemma more complex, this variety also offers concrete, quantitative means to measure and compare their efficacy.[24] The nudge approach for example,[25] based on the influential work of Richard Thaler and Cass Sunstein,[26] represents an important addition to the regulatory choice dilemma, and has led numerous scholars to examine when nudges can be relied upon to replace more compulsory rules.[27]

SOME ADVANTAGES OF VOLUNTARY COMPLIANCE

As suggested (compare with Figures 0.3 and 0.4), and as will be developed in more detail in the next few chapters, the advantages of voluntary compliance and its importance have been recognized across a number of dimensions.[28] Voluntary compliance, especially when driven by intrinsic motivation,[29] is usually considered more sustainable and of higher quality than coerced compliance. In contrast, when governments rely on coercive measures due to lack of trust in public cooperation, compliance tends to be short term and heavily dependent on the presence of sanctions.[30] In addition, reliance on intrinsic voluntary compliance is more likely to increase feelings of trust and trustworthiness among regulated entities,[31] entail lower enforcement costs,[32] and result in a higher quality of cooperation.[33] Compliance that is more voluntary is also more likely to lead to greater

[24] 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.

[25] See Chapter 4, which focuses on regulatory approaches that attempt to explain nudges.

[26] Thaler, R., and Cass Sunstein. "Nudge: Improving decisions about health, wealth and happiness." *Amsterdam Law Forum; HeinOnline: Online*, 2008.

[27] E.g., Feldman, Yuval, and Orly Lobel. "Behavioral trade-offs: Beyond the land of nudges spans the world of law and psychology." *San Diego Legal Studies Paper* 14–158 (2014).

[28] Winter, Søren C., and Peter J. May. "Motivation for compliance with environmental regulations." *Journal of the Association for Public Policy Analysis and Management* 20.4 (2001): 675–698.

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

[30] Gunningham, Neil, Robert A. Kagan, and Dorothy Thornton. "Social license and environmental protection: Why businesses go beyond compliance." *Law & Social Inquiry* 29.2 (2004): 307–341.

[31] 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.

[32] Frey, Bruno S. "Does monitoring increase work effort? The rivalry with trust and loyalty." *Economic Inquiry* 31.4 (1993): 663–670.

[33] Feldman, Yuval, and Henry E. Smith. "Behavioral equity." *Journal of Institutional and Theoretical Economics: JITE* (2014): 137–159.

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resilience, as evidenced in findings from research on therapeutic jurisprudence and on happiness.[34]

Efforts to understand how to stimulate and encourage voluntary compliance have acknowledged that factors related to fairness, morality, duty to obey, and trust play an important role in compliance in areas from environmental and health regulations (including COVID-19 measures) to traffic and tax laws.[35]

VOLUNTARY COMPLIANCE AND INTRINSIC MOTIVATION

Chapter 2 will explore the complex nature of intrinsic motivation and its relationship to voluntary compliance. While intrinsic motivation is often seen as a key component of voluntary compliance – driving people to want to comply rather than merely following rules – this relationship warrants closer examination.[36] First, intrinsic motivations may sometimes work against truly voluntary compliance, particularly when they operate through self-imposed constraints like guilt rather than genuine willingness to comply.[37] In contrast, a normative perspective on a rule of law would arguably want normative members of society to have strong instincts about engaging in wrongful behavior.

Indeed, there is a growing recognition of the importance of intrinsic compliance motivations,[38] which supports the preference for tailoring the focus of compliance

[34] For greater resilience see: Patall, Erika A., Harris Cooper, and Jorgianne Civey Robinson. "The effects of choice on intrinsic motivation and related outcomes: A meta-analysis of research findings." *Psychological Bulletin* 134.2 (2008): 270. For therapeutic jurisprudence see: Winick, Bruce J. "The jurisprudence of therapeutic jurisprudence." *Psychology, Public Policy, and Law* 3.1 (1997): 184–206; Wexler, David. "Therapeutic jurisprudence: An overview." *Thomas M. Cooley Law Review* 17 (2000): 125–134. For happiness see: Posner, Eric A., and Cass R. Sunstein, eds. *Law and happiness*. University of Chicago Press, 2010; Bronsteen, John, Christopher Buccafusco, and Jonathan S. Masur. *Happiness and the law*. University of Chicago Press, 2014.

[35] Dana, Jason, Roberto A. Weber, and Jason Xi Kuang. "Exploiting moral wiggle room: Experiments demonstrating an illusory preference for fairness." *Economic Theory* 33 (2007): 67–80. Fine, Adam D., and Benjamin van Rooij. "Legal socialization: Understanding the obligation to obey the law." *Journal of Social Issues* 77.2 (2021): 367–391. Torgler, Benno. "Tax morale, rule-governed behaviour and trust." *Constitutional Political Economy* 14 (2003): 119–140. Van Rooij, Benjamin, et al. "Compliance with COVID-19 mitigation measures in the United States." *Amsterdam Law School Research Paper* 2020–21 (2020).

[36] See the discussion of my work with Barak-Corren and Robinson on the ultra-orthodox enlistment, where the focus is on having them want to be in the military not just complying with the regulation against their will. Barak-Corren, Netta, Shelley Robinson, and Yuval Feldman. "Haredi draft from the Haredi perspective: Attitudes, motivations, and social perceptions." Available at SSRN, March 25, 2024, https://ssrn.com/abstract=4776500.

[37] O'Keefe, Daniel J. "Guilt as a mechanism of persuasion." In *The persuasion handbook: Developments in theory and practice*, edited by James Price Dillard and Michael Pfau, SAGE Publications, 2002: 329–344; Massi Lindsey, Lisa L. "Anticipated guilt as behavioral motivation: An examination of appeals to help unknown others through bone marrow donation." *Human Communication Research* 31.4 (2005): 453–481.

[38] Gächter, Simon, and Jonathan F. Schulz. "Intrinsic honesty and the prevalence of rule violations across societies." *Nature* 531.7595 (2016): 496–499; Dai, Zhixin, Fabio Galeotti, and Marie Claire

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measures to individuals' motivations.[39] Generally, it has been shown that extrinsic motivators, such as deterrence, are not only less effective than was once assumed, but that they also undermine the ability of intrinsic motivation to enhance compliance with regulatory efforts.[40]

WHY INTRINSIC VOLUNTARY COMPLIANCE CAN'T BE OUR WORKING DEFINITION

As suggested, despite the importance of intrinsic motivation to voluntary compliance, it will be unrealistic to limit our discussion of voluntary compliance only to such behaviors for the following reasons: First, in most cases behavior is not motivated by just one factor and hence it will be impossible to isolate what actually affected people. Second, there is some limitation in basing the definition of voluntary on the subjective feeling of the individual what motivates them. Third, as will be discussed in more detail in Chapters 2 and 3, which focus on crowding-out motivation, it is not fully clear from the literature what counts as intrinsic and what counts as extrinsic motivation. Insights from the social norms literature also have great importance because this approach, too, weakens the dichotomy between external versus internal measures, as people's reactions to their surrounding communities reflect a combination of intrinsic and extrinsic motivations.[41]

Furthermore, intrinsic voluntary compliance is not just an unrealistic ideal, it also raises hard challenges for compliance research, for example, in circumstances that do not present a clear moral violation, not *malum in se* but rather *malum prohibitum*.[42] In such cases, where the violation is a legal but not a moral one, adding an explanation for why it is important to obey the law might intensify guilt, which would prevent people from making fully free choices. From many perspectives, the fact that someone makes a choice because they want to, and not because of any

Villeval. "Cheating in the lab predicts fraud in the field: An experiment in public transportation." *Management Science* 64.3 (2018): 1081–1100; Luttmer, Erzo FP, and Monica Singhal. "Tax morale." *Journal of Economic Perspectives* 28.4 (2014): 149–168; Tyler, Tom R., and Steven L. Blader. "Can businesses effectively regulate employee conduct? The antecedents of rule following in work settings." *Academy of Management Journal* 48.6 (2005): 1143–1158.

[39] Cooter. "Do good laws make good citizens?" 1577; Porat, Ariel. "Changing people's preferences by the state and the law." *Theoretical Inquiries in Law* 22.2 (2021): 215–246; Feldman, Yuval, and Yotam Kaplan. "Ethical blind spots and regulatory traps: On distorted regulatory incentives, behavioral ethics and legal design." In *Law and economics of regulation: Economic analysis of law in European legal scholarship*. Vol. 11, edited by K. Mathis and A. Tor, Springer International Publishing, 2021: 37–54.

[40] See generally Frey, Bruno S., and Felix Oberholzer-Gee. "The cost of price incentives: An empirical analysis of motivation crowding-out." *American Economic Review* 87.4 (1997): 746–755; Underhill. "When extrinsic incentives displace intrinsic motivation," 213.

[41] Feldman, Yuval. "The expressive function of trade secret law: Legality, cost, intrinsic motivation, and consensus." *Journal of Empirical Legal Studies* 6.1 (2009): 177–212.

[42] Travers, Michael L. "Mistake of law in mala prohibita crimes." *University of Chicago Law Review* 62.3 (1995): 1301–1331.

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external measure, positive or negative, seems like the most complete representation of voluntary compliance. However, there are many examples in which being intrinsically motivated might actually reduce your freedom to choose a specific behavior. For example, if someone wants to improve their social image by complying with a certain rule, is it plausible to argue that their compliance is not voluntary only because it is done for extrinsic reasons? A similar question arises about the nonvoluntary nature of the compliance in the opposite context, where, for example, an individual's compliance is driven by guilt.

BEHAVIORAL ETHICS AND COMPLIANCE

Behavioral ethics is another relatively new field exploring people's ethical decision-making processes.[43] My previous book, *The Law of Good People*, examines the challenges faced by governments that need to regulate people who do not view themselves as needing regulation in view of their ethical and legal perceptions or, more accurately, misperceptions, of their own behavior.[44] Scientific research on honesty and dishonesty has spiked in recent years,[45] with most studies mentioning "dishonesty" in the context of rule following or rule violation.[46] Laboratory studies of dishonesty have shown dishonesty in games to be related to various types of unethical behaviors outside the laboratory. For example, dishonesty in dice-roll and coin-toss tasks has been associated with free-riding on buses and not returning undeserved pay.[47] This line of study could presumably lead to some pessimism about the advisability of the government trusting the public. However, because the opposite phenomenon – a connection between honesty and compliance to rules that are not solely related to honesty – has not been studied, it is not clear to what extent honest people differ from cooperators or compliers. For example, are honest people more likely to care for the environment?

In addition, current dishonesty research, while focusing on the notion of the proportion of dishonest people,[48] nonetheless fails to predict the distributive effect of the situational factors that might undermine honesty.[49] The recognition that

[43] Treviño, Linda K., Gary R. Weaver, and Scott J. Reynolds. "Behavioral ethics in organizations: A review." *Journal of Management* 32.6 (2006): 951–990.

[44] Feldman, Yuval, Benjamin van Rooij, and Melissa Rorie. "Rule-breaking without crime: Insights from behavioral ethics for the study of everyday deviancy." *The Criminologist* 44.2 (2019): 8–11.

[45] Bazerman, Max H., and Francesca Gino. "Behavioral ethics: Toward a deeper understanding of moral judgment and dishonesty." *Annual Review of Law and Social Science* 8.1 (2012): 85–104; Feldman. *The law of good people*.

[46] Pascual-Ezama, David, et al. "Cheaters, liars, or both? A new classification of dishonesty profiles." *Psychological Science* 31.9 (2020): 1097–1106.

[47] Dai, Galeotti, and Villeval. "Cheating in the lab predicts fraud in the field." Potters, Jan, and Jan Stoop. "Do cheaters in the lab also cheat in the field?" *European Economic Review* 87 (2016): 26–33.

[48] Gibson, Rajna, Carmen Tanner, and Alexander F. Wagner. "Preferences for truthfulness: Heterogeneity among and within individuals." *American Economic Review* 103.1 (2013): 532–548.

[49] Feldman. *The law of good people*.

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different people engage in misconduct on different levels of awareness and intentionality is an important contribution to understanding the likelihood of coercive versus cooperative regulatory styles succeeding in creating voluntary compliance in different segments of the population. Reviewing this literature is also important to help discern the proportion of "good" people in a given population, who might be more likely to react to trust-enhancing cooperative regulatory measures.

According to this approach, if even moral people cannot be completely trusted, given their ability to misperceive their own behavior, how can states trust the entirety of the public? Along that line, in related works I have endeavored to create a taxonomy of the situations in which government should be more concerned about the likelihood of nondeliberative and unintended unethicality.[50] In addition, in collaboration with others, I have also examined various ways in which a design aimed at inducing people to self-deceive themselves might work,[51] as might the "self-imposed red lines" that people adopt for their self-serving interpretations of the law.[52]

The connection between behavioral ethics and compliance is especially relevant to Chapter 9 on taxation morals, where we concentrate primarily on the resemblance of the literature on this issue with research about honesty and examine to what extent the predictions from honesty research are relevant to compliance. In contrast, in Chapter 10 on environmental compliance, our examination focuses mostly on cooperation and prosocial behavioral research to understand when compliance is likely to occur. While these distinctions are not mutually exclusive, it is possible to recognize that there are systematic differences between these three regulatory domains. Thus, for example, we can explore several questions when discussing taxation. Can people be trusted to declare their donations without attaching the receipts? Extending beyond the issue of taxation to traffic laws why can't Israelis for example, be trusted to turn right on red?[53]

HOW MANY COOPERATORS DO WE NEED?

The connection between honesty and compliance discussed in this chapter becomes especially important regarding the question of governments' ability to trust the public. The roles of institutions and external regulatory contexts vary significantly when examining compliance, cooperation, and honesty as distinct behavioral phenomena.

[50] Feldman, Yuval, and Yotam Kaplan. "Big data and bounded ethicality." *Cornell Journal of Law and Public Policy* 29 (2019): 39–94.

[51] Pe'er, Eyal, and Yuval Feldman. "Honesty pledges for the behaviorally-based regulation of dishonesty." *Journal of European Public Policy* 28.5 (2021): 761–781.

[52] Feldman, Yuval, and Eliran Halali. "Regulating 'good' people in subtle conflicts of interest situations." *Journal of Business Ethics* 154 (2019): 65–83.

[53] Barak-Corren, Netta. "Regulating for integration by behavioral design: An evidence-based approach for culturally responsive regulation." *Regulation & Governance* 16.4 (2022): 1079–1100.

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However, since there are possible correlations between honesty and compliance, it is important to examine current research to understand how many people we know are lying and to gain at least some preliminary accounts of how many people cheat. In that context, the conclusions from the broad research seems to be mixed. On the one hand, an extensive meta-analysis suggested that,[54] on average, 50 percent of people are dishonest.[55] On the other hand, a highly influential economics paper found the number of liars appears to be much smaller.[56] This inconsistency, which appears in honesty studies as well, raises important questions about whether enough people will comply voluntarily without coercion. The research emphasizes the need to gather empirical data about compliance patterns before determining the appropriate level of regulatory coercion. In Chapter 11, we will present a taxonomy of legal situations more conducive to voluntary compliance, along with an analysis of the proportion of compliers needed for different regulatory contexts.

VOLUNTARY COMPLIANCE AND TRUST

An additional important body of literature involves the growing recognition of the importance of trust and legitimacy in achieving voluntary compliance. Numerous studies across almost all the social sciences have sought to understand what builds trust and how trust contributes to the creation of a just and functioning society.[57] However, most of this literature focuses on how people can trust public and legal institutions and overlooks the mechanisms state institutions need in order to trust the public.[58] As will be discussed in more detail in Chapter 4, in the context of commercial translations, a prime example of the importance of trust and reputation can be found in classic studies of the diamond industry, which has long relied on the extralegal enforcement of its business norms and the order without law mentioned

[54] Gerlach, Philipp, Kinneret Teodorescu, and Ralph Hertwig. "The truth about lies: A meta-analysis on dishonest behavior." *Psychological Bulletin* 145.1 (2019): 1–44.

[55] As we discuss in later chapters, another area which also focused on proportion of cooperators, defectors, and conditional cooperators is behavioral game theory, where, in many studies, the majority, or at least the largest group in society, is of conditional cooperators. Chaudhuri, Ananish, and Tirnud Paichayontvijit. "Conditional cooperation and voluntary contributions to a public good." *Economics Bulletin* 3.8 (2006): 1–14.

[56] In that regard, see a quote from Abeler, Johannes, Daniele Nosenzo, and Collin Raymond. "Preferences for truth-telling." *Econometrica* 87.4 (2019): 1115–1153. "Three key insights follow from our study. First, our meta-analysis shows that the data are not in line with the assumption of payoff-maximizing reporting but rather with some preference for truth-telling. Second, our results suggest that a preference for being seen as honest and a preference for being honest are the main motivations for truth-telling. Finally, policy interventions that rely on voluntary truth-telling by some participants could be very successful, in particular if it is made hard to lie while keeping a good reputation" (1120).

[57] Glaeser, Edward L., et al. "Measuring trust." *Quarterly Journal of Economics* 115.3 (2000): 811–846; Hardin, Russell. "Trust and trustworthiness." *Russell Sage Foundation* (2002).

[58] Hibbing, John R., and Elizabeth Theiss-Morse. *Congress as public enemy: Public attitudes toward American political institutions*. Cambridge University Press, 1995.

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in the next paragraph.[59] Similar dynamics can be found in the cotton industry and among farmers in Shasta County, California.[60] While clearly there are some reciprocal relationships between parties in places, many of the mechanisms related to the ability of governments to trust its own citizens,[61] drawing on concepts such as social capital and interpersonal trust.[62]

VOLUNTARY COMPLIANCE WITHOUT LAW?

As mentioned in the early parts of the chapter, it is possible to consider voluntary compliance in situations where it is social norms and not any particular laws that need to be observed. The order without law literature offers an additional theoretical perspective on voluntary compliance, indicating that behavioral change can be achieved even with the limited involvement of the state.[63] This type of literature usually emphasizes that in many situations, people can find alternative arrangements to those imposed by the law. This book goes beyond this insight; our approach aims to understand how people could interact to build sufficient confidence with the government, while enabling the government to take a step back and trust in the public's reactions. Ideally, these prevailing public responses would be stable and effective enough over time to reduce the need for alternative regulatory mechanisms. Such an approach by the state could be taken in the context of public responses to regulation (as in cases such as using children's car seats, where voluntary compliance was achieved by applying reason and science),[64] or even in the absence of

[59] Bernstein, Lisa. "Opting out of the legal system: Extralegal contractual relations in the diamond industry." In *Contract-freedom and restraint*, edited by Richard A. Epstein, Routledge, 2013: 359–403.

[60] Bernstein, Lisa. "Private commercial law in the cotton industry: Creating cooperation through rules, norms, and institutions." *Michigan Law Review* 99.7 (2001): 1724–1790; Ellickson, Robert C. *Order without law: How neighbors settle disputes*. Harvard University Press, 1991.

[61] Monitoring technology is deployed for multiple purposes in universities, in contexts from learning analytics to attendance tracking, as a replacement for placing trust in students. See Ross, Jen, and Hamish Macleod. "Surveillance, (dis)trust and teaching with plagiarism detection technology." Proceedings of the 11th International Conference on Networked Learning, 2018.

[62] Putnam, Robert. "Social capital: Measurement and consequences." *Canadian Journal of Policy Research* 2.1 (2001): 41–51. See, for example, Luria, Gil, Ram A. Cnaan, and Amnon Boehm. "National culture and prosocial behaviors: Results from 66 countries." *Nonprofit and Voluntary Sector Quarterly* 44.5 (2015): 1041–1065. Other explanations have been given for prosocial behavior, such as: religious participation (see Putnam, Robert D., and David E. Campbell. *American grace: How religion divides and unites us*. Simon & Schuster, 2012). Changes in patterns of prosocial motivation between Grades 2 and 12 were examined in five samples from four countries: West Germany, Poland, Italy, and the United States. See Boehnke, Klaus, et al. "Developmental pattern of prosocial motivation: A cross-national study." *Journal of Cross-Cultural Psychology* 20.3 (1989): 219–243.

[63] Ellickson. *Order without law*.

[64] Zaza, Stephanie, et al. "Reviews of evidence regarding interventions to increase use of child safety seats." *American Journal of Preventive Medicine* 21.4 (2001): 31–47; Rivara, Frederick P., et al. "Booster seats for child passengers: Lessons for increasing their use." *Injury Prevention* 7.3 (2001): 210–213; Stasson, Mark, and Martin Fishbein. "The relation between perceived risk and preventive action: A

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regulation, such as where the social and community norms emerged without any state involvement (as in the case of allocating fencing costs among the farmers in Shasta County).[65] Nonetheless, it is unclear whether one can even define compliance with social and community norms as voluntary.

While these studies demonstrate how social norms can shift around smoking in public spaces and sexual harassment for example, caution is needed in generalizing these examples to other behavioral contexts, as the mechanisms driving norm change may be context-specific.[66] These few cases do not enable us to build a comprehensive account of when monitoring and sanctioning are not needed. Nor do they help us understand the mechanisms of why voluntary compliance succeeded in these cases. In fact, these few cases have provided a very limited view of the social norms involved in voluntary compliance.

For example, as will be discussed in more detail in Chapter 4, Lisa Bernstein conducted studies in the diamond and the cotton industries,[67] and found that close social groups with shared values are able to function and maintain order and rules with only limited formal legal intervention. One last important point in the context of nonformal controls begs the question, is compliance also voluntary when people are not being coerced formally, but, rather, motivated to act in a certain way directly through incentives, or indirectly through community norms or reputational mechanisms?

BEHAVIORAL PUBLIC POLICY AND VOLUNTARY COMPLIANCE

The literature on behavioral public policy and voluntary compliance, emphasizing the recognition that people cannot comply solely by reacting to prices, as classical economics suggests, serves as one of the basic foundations of this book.[68] Behavioral

within-subject analysis of perceived driving risk and intentions to wear seatbelts." *Journal of Applied Social Psychology* 20.19 (1990): 1541–1557; Şimşekoğlu, Özlem, and Timo Lajunen. "Social psychology of seat belt use: A comparison of theory of planned behavior and health belief model." *Transportation Research Part F: Traffic Psychology and Behaviour* 11.3 (2008): 181–191.

[65] Ellickson. *Order without law*.

[66] Existing evidence indicates an overall significant post-legislative positive effect regarding voluntary home-smoking restrictions. See Monson, Eva, and Nicole Arsenault. "Effects of enactment of legislative (public) smoking bans on voluntary home smoking restrictions: A review." *Nicotine & Tobacco Research* 19.2 (2017): 141–148; Wakefield, Melanie A., et al. "Effect of restrictions on smoking at home, at school, and in public places on teenage smoking: Cross sectional study." *BMJ* 321.7257 (2000): 333–337. How #MeToo did what laws did not. See more: Leopold, Joy, et al. "The hashtag heard round the world: How# MeToo did what laws did not." *Equality, Diversity and Inclusion: An International Journal* 40.4 (2021): 461–476; Parker, Christine. "How to win hearts and minds: Corporate compliance policies for sexual harassment." *Law & Policy* 21.1 (1999): 21–48.

[67] Bernstein. "Opting out of the legal system"; Bernstein. "Private commercial law in the cotton industry."

[68] Chetty, Raj. "Behavioral economics and public policy: A pragmatic perspective." *American Economic Review* 105.5 (2015): 1–33.

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public policy has contributed to the greater variety of regulatory tools available to policymakers (e.g., nudges, framing, pledges, and so on) aimed at changing people's behavior through means other than coercion. However, behavioral public policy suffers from the absence of any normative perspective.

Nudges, as discussed earlier in this chapter,[69] are situated somewhere in the middle between the more intrinsically oriented interventions, such as morality and reason, and the more extrinsically oriented measures, such as incentives and sanctions. Nudges themselves can, of course, range from educating people to reminding them of their morality and the likelihood of getting sanctioned. They can also lie somewhere in the middle where they simply change the choice of architecture of legal decisions.[70]

As suggested, there has been a growth in the number of interventions in the behavioral regulatory era, with some comparative studies conducted.[71] However, most of these intervention studies do not involve concrete, quantitative measurements and thus do not allow for comparisons of the efficacy of the interventions,[72] leading numerous scholars to examine when nudges can be relied upon to replace more compulsory rules.[73] The seminal work of Katy Milkman, for example, shows the negative correlation between expert predictions of which regulatory intervention is better at changing behavior.[74] An important goal of Milkman's important comparative project was distinguishing between the various long-term impacts of the vast array of behavioral regulatory tools, which lie somewhere on the spectrum between intrinsic and extrinsic measures, as discussed earlier in this chapter.

THE IMPORTANCE OF CULTURE IN VOLUNTARY COMPLIANCE

To better understand the issue of compliance, it is critical to clarify how trust, social diversity, social inclusiveness, solidarity, and helpfulness affect the different levels of social cohesion across different countries. Generally, countries with a higher value of social cohesion are more likely to have also higher level of innovation and social progress.[75] In Chapter 6 of the book, focusing on culture and

[69] Thaler, Richard H., and Cass R. Sunstein. *Nudge: The final edition*. Yale University Press, 2021.

[70] Münscher, Robert, Max Vetter, and Thomas Scheuerle. "A review and taxonomy of choice architecture techniques." *Journal of Behavioral Decision Making* 29.5 (2016): 511–524.

[71] Mertens, Stephanie, et al. "The effectiveness of nudging: A meta-analysis of choice architecture interventions across behavioral domains." *Proceedings of the National Academy of Sciences* 119.1 (2022): e2107346118.

[72] Feldman and Lobel. "The incentives matrix," 1151.

[73] Feldman and Lobel. "Behavioral trade-offs."

[74] Milkman, Katherine L., et al. "A 680,000-person megastudy of nudges to encourage vaccination in pharmacies." *Proceedings of the National Academy of Sciences* 119.6 (2022): e2115126119.

[75] Borisov, I. V., and Szergej Vinogradov. "The role of social cohesion in social and economic processes." In *Business and management sciences: New challenges in theory and practice*. Szent István University,2018: 521–539.

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voluntary compliance, we examine the huge variation that exists between the different countries with regard to trust, power, collectivist versus individualistic culture, solidarity, and other values that appear to predict the likelihood of voluntary compliance.[76]

NONVOLUNTARY COMPLIANCE

As described, important literature has emerged that identifies voluntary compliance and self-regulation as the optimal guiding principles of regulatory governance. However, these concepts can be elusive and thus difficult to fully understand conceptually and practically on both the individual level and the aggregate level, which is of interest to the regulatory state. In this book, we show that many of these studies on voluntary compliance were carried out in very contextualized circumstances, thus limiting the possibility of generalizing them to the realm of broader policies.

Fully understanding the effect of sanctions on voluntariness becomes even more complicated when we move from a behavioral perspective to the less direct, sociological one, according to which punishment is viewed as a solidarity-producing mechanism.[77] Generally speaking, the literature lacks clarity on whether voluntary compliance encompasses situations involving positive incentives or behavioral nudges – a crucial distinction since the relationship between coercion and voluntary compliance isn't always straightforward. For example, if a reputational mechanism is put in place that increases the reputational cost people will pay for not upholding a certain norm, can their ensuing compliance be considered voluntary because people want to belong to a certain community in which certain behavior is considered desirable? In essence, as we will examine Chapter 2 (discussing intrinsic motivation), our question is whether compliance can be considered voluntary only when people autonomously *want* to cooperate. Or is compliance voluntary also when people are not being coerced, but, rather, incentivized to act in a certain way directly through incentives, or indirectly, through reputational mechanisms? Similarly, when nonvoluntary interventions induce voluntary compliance, how long do they successfully affect people's choices to cooperate? Some of these questions will be examined in Chapter 3, which examines the connection between regulatory tools used and the likelihood that voluntary compliance will emerge from them.

[76] Elahee, Mohammad N., Susan L. Kirby, and Ercan Nasif. "National culture, trust, and perceptions about ethical behavior in intra-and cross-cultural negotiations: An analysis of NAFTA countries." *Thunderbird International Business Review* 44.6 (2002): 799–818; Oh, Se Hyung. "Do collectivists conform more than individualists? Cross-cultural differences in compliance and internalization." *Social Behavior and Personality: An International Journal* 41.6 (2013): 981–994.

[77] Garland, David. *Punishment and modern society: A study in social theory*. University of Chicago Press, 1993.

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SPONTANEOUS COMPLIANCE

The first approach of spontaneous compliance could differentiate between induced and spontaneous, where the focus on the definitions is related to the process whereby people choose to comply. Under this approach, any time an individual chooses to comply without any external intervention, the compliance should be considered voluntary. Examples of such an approach include various social and commercial practices that have evolved in relational contracts; for instance, certain personal behaviors affecting the environment, such as not eating meat or buying recycled products.[78] Behavior that arises naturally from a person's own desires, without any external inducement, can also be classified as voluntary. Such a definition of voluntary limits the contexts in which voluntary compliance is possible. For example, in the area of taxation, there is no expectation that people will freely want to pay a tax that does not exist.

SHOULD VOLUNTARY COMPLIANCE BE AN AWARE CHOICE?

A second approach, following our previous discussion regarding nudges, might focus on conscious awareness that a decision is voluntary and people are fully aware of their behavior and its impact. It is possible to argue that when people unreflectively engage in compliance because it is a default in their behavior, the voluntary element of it is absent. Embedded in this approach is some criticism of nudge approaches, which are considered noncoercive. However, as discussed in Chapter 4 in more detail, nudges do take advantage of some automatic behavioral processes, much like engaging in binge watching on Netflix and other streaming services may be induced because of the default created by the next episode in a ten-second feature.[79]

VOLUNTARY COMPLIANCE AS AN AUTONOMOUS CHOICE

Another related approach to voluntary compliance involves the question of whether the regulatee's feeling is a subjective or an objective one.[80] Arguably, if people subjectively feel that they have the freedom not to comply, their compliance is voluntary, even if this is not the case objectively.[81] Alternatively, if people in a certain group make similar compliance choices, it may be reasonable to conclude that

[78] Moser, Andrea K. "Consumers' purchasing decisions regarding environmentally friendly products: An empirical analysis of German consumers." *Journal of Retailing and Consumer Services* 31 (2016): 389–397.

[79] http://persuasion-and-influence.blogspot.com/2018/03/next-episode-in-10seconds-default.html.

[80] Nelson, Robert M., et al. "The concept of voluntary consent." *American Journal of Bioethics* 11.8 (2011): 6–16.

[81] Ryan, Richard M., and Edward L. Deci. "Autonomy is no illusion." In *Handbook of experimental existential psychology*, edited by Jeff Greenberg, Sander L. Koole, and Tom Pyszczynski, The Guilford Press, 2004: 449–479.

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there may be some social mechanism that causes people to comply, even if they subjectively think that this is their voluntary choice.

VOLUNTARY COMPLIANCE AS DISCRETION

Another way to understand the meaning of voluntary compliance is related to the amount of discretion that states give people. The more discretion people have, the more they can apply their own interpretations of what is expected from them.[82] While it is generally understood that giving people discretion cannot be considered voluntary compliance, it is true that when people have multiple behaviors to choose from within certain requirements, it can have an effect on their actions.[83] People can decide: Should I always wear a mask, or only when I'm near people? Never turn on red, or turn on red when traffic allows for it?

Much of the inspiration for writing this book came from the COVID crisis, during which states came to understand the classical limits of compliance. One prominent dilemma faced by many countries involved whether to trust people with the decision to wear a mask all the time or only when there were people near them.[84] Since the definition of what it means to be near people is flexible, people have some leverage to define terms like crowded or near people and decide their level of compliance and how careful they wanted to be. In Israel for example, in the early days of COVID, everybody had to wear masks all the time, as if their discretion could not be trusted. This nondiscretionary approach reflects certain assumptions in Israeli culture. For example, unlike most other countries in the world, some countries, including Israel don't allow cars to turn right on red lights, not trusting drivers' discretion.[85] There is a similar debate between safe sex and abstention in the literature regarding sex education for adolescents.[86]

VOLUNTARY COMPLIANCE AND ENFORCEMENT

A third approach, and probably the easiest to work with, focuses on whether the motivation behind compliance is coerced by state sanctions or by other barriers

[82] Schlag, Pierre. "Rules and standards." *UCLA Law Review* 33 (1985): 379–430; Kaplow, Louis. "Rules versus standards: An economic analysis." In *Scientific models of legal reasoning*, edited by Scott Brewer, Routledge, 2013: 11–84.

[83] Feldman, Yuval, and Doron Teichman. "Are all legal probabilities created equal?" *New York University Law Review* 84 (2009): 980–1022.

[84] As, for example, was the situation in the US. See DeJonckheere, Melissa, et al. "Views on COVID-19 and use of face coverings among US youth." *Journal of Adolescent Health* 68.5 (2021): 873–881.

[85] Zador, Paul, Jack Moshman, and Leo Marcus. "Adoption of right turn on red: Effects on crashes at signalized intersections." *Accident Analysis & Prevention* 14.3 (1982): 219–234.

[86] Kohler, Pamela K., Lisa E. Manhart, and William E. Lafferty. "Abstinence-only and comprehensive sex education and the initiation of sexual activity and teen pregnancy." *Journal of Adolescent Health* 42.4 (2008): 344–351.

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which makes noncompliance impossible. An example of the latter can be found in the context of public transportation. There are some places where there is simply no way to travel without a ticket. In such places, people are likely to be complying with at least some public transportation rules.

In some cases, administrative tools, such as fines, are used to enforce fare payment, for example. There are several enforcement strategies such as: increasing the fine amount; improving the fine collection procedure; changing the offence from civil to criminal; improving the ability to identify the identity of the passengers; and adopting a joint fast-track justice procedure for paying fines.[87]

In other public transportation systems, where enforcement is accomplished using inspectors,[88] the compliance is voluntary but there is some risk of being caught not complying that people take into account.[89] Although current research distinguishes between totally voluntary and coerced voluntary behavior, it is not entirely clear what level of expected sanction could be seen as reducing or even eliminating the individual's perceived or actual voluntarism.

TECHNOLOGY AND VOLUNTARY COMPLIANCE

The relationship between voluntary compliance and enforcement is closely linked to another concept that is already significantly impacting compliance: the use of monitoring technology and algorithmic predictions. These advancements enhance the ability of states to "trust" certain individuals in specific contexts that were previously difficult to predict or verify.

Chapter 7 will examine the contribution of technology to the emergence of voluntary compliance in light of technology's capacity to improve monitoring and to make the monitoring mechanism less noticeable. The goal of technology in our context is to make it easier for people to trust each other. This is not because they actually do trust each other, but because an algorithm suggests that they can be more relaxed about the risks they take when trusting people. Technology enables

[87] Hansen, Stephen, Brian Whitelaw, and Janis D. Leong. "Tackling fare evasion on Calgary transit's CTrain system." *Sustaining the Metropolis* 84 (2012): 84–95. https://onlinepubs.trb.org/onlinepubs/circulars/ec177.pdf#page=94; Larwin, Thomas F. "Off-board fare payment using proof-of-payment verification." Vol. 96. Transportation Research Board, 2012. https://ssti.us/wp-content/uploads/sites/1303/2012/03/Proof-of-payment-TRB.pdf; Torres-Montoya, Mariana. "Tackling fare evasion in Transantiago: An integrated approach." Transportation Research Board 93rd Annual Meeting, No. 14-4641. 2014; Reddy, Alla V., Jacqueline Kuhls, and Alex Lu. "Measuring and controlling subway fare evasion: Improving safety and security at New York City Transit Authority." *Transportation Research Record* 2216.1 (2011): 85–99.

[88] Bijleveld, Catrien. "Fare dodging and the strong arm of the law: An experimental evaluation of two different penalty schemes for fare evasion." *Journal of Experimental Criminology* 3 (2007): 183–199; Barabino, Benedetto, Cristian Lai, and Alessandro Olivo. "Fare evasion in public transport systems: A review of the literature." *Public Transport* 12 (2020): 27–88.

[89] Dai, Galeotti, and Villeval. "Cheating in the lab predicts fraud in the field." Barabino, Lai, and Olivo. "Fare evasion in public transport systems."

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less intrusive forms of surveillance that could reduce behavioral resistance. While this suggests a need to minimize surveillance's negative effects, we must also consider whether increased technological monitoring should be accompanied by greater tolerance for minor infractions. The cashless economy illustrates this tension – while it reduces the need for trust-based tax compliance through technological solutions, public resistance to COVID contact-tracing apps demonstrates that technological surveillance, even for clear public benefit, often faces significant opposition.[90] Chapter 7 will also look at what types of apps and technological monitoring people are more likely to resist.

INCENTIVES AND VOLUNTARY COMPLIANCE

An additional regulatory approach, which is based on incentives and will be discussed in more detail in Chapter 2 (which focuses on intrinsic motivation), Chapter 3 (which focuses on crowding out), and Chapter 10 (which focuses on environmental compliance), is related to increasing the use of incentives.[91] Incentives such as subsidies and tax breaks have various advantages over sanctions since they are seen as being better suited for fostering cooperation, encouraging innovation, and reducing enforcement costs. Part of the advantage of incentives seems to be in the fact that they cause people to want to comply even when they do it for extrinsic financial reasons. However, especially with higher incentives and when environments are competitive, people may not really have a real choice other than to behave in a way that will maximize the regulatory incentives they receive for compliance. In such situations, one might question whether incentivized compliance, which could be viewed as voluntary, is indeed truly voluntary. This is especially true if we remember that part of the attempt to clarify what voluntary compliance is related to examining when it might be enduring, lead to positive externalities, and cause people to engage in behavior beyond compliance.

VOLUNTARY COMPLIANCE AND SELF-REGULATION

As described, relevant literature has emerged that identifies voluntary compliance and self-regulation as the optimal guiding principles of regulatory governance. Both processes are heavily conditioned upon the creation of trust both between people and between people and their governments. However, these concepts can be elusive. As a result, it is difficult to fully capture important behavioral and institutional factors that moderate the behavioral effect of different regulatory governance

[90] Rowe, Frantz. "Contact tracing apps and values dilemmas: A privacy paradox in a neo-liberal world." *International Journal of Information Management* 55 (2020): 102178.

[91] Laffont, Jean-Jacques, and Jean Tirole. A *theory of incentives in procurement and regulation*. MIT Press, 1993.

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measures.[92] Considering the range of situations in which there is public interest in promoting honest and ethical behavior, this lacuna is especially significant for legal and public policy, as such behavior goes beyond mere compliance with the rules.[93] While a liberal democratic state may only be able to expect and demand compliance concerning what is required by the law, it is invaluable to understand what underlies questions of compliance as well as behavior that goes beyond compliance with explicit rules. Our ability to accurately predict such behavior influences policy regarding how to best encourage both accounts of honesty regarding compliance and other aspects of ethicality, which can contribute to better theoretical predictions about voluntary cooperation with different regulatory measures.

Thus, the main purpose of this book is to create a new conceptual framework from voluntary compliance that will combine concepts from different literatures, such as being honest, trustworthy, moral, compliant, and cooperative. It will also examine to what extent findings from the different literatures can help explain and accurately predict voluntary compliance and in what contexts. Clearly, there are many situations in life where one is required to comply. These include contexts where, for example, honesty does not play an important part (e.g., environmental compliance), some contexts within which compliance and honesty are far more tightly intertwined (e.g., misreporting income on tax forms), and still more contexts within which the relevant behavior appears to be linked primarily to rule-surpassing honesty. Other contexts involve some other aspect of substantive ethicality, as distinct from mere compliance (e.g., reporting problems in the sale of property, withholding information that could help a customer find a less costly solution, or information about an imminent price drop).[94]

THE DESIRED PROPORTION OF VOLUNTARY COOPERATORS AND REGULATORS' DILEMMA

In light of these dilemmas about nonvoluntary interventions, other issues to be examined at the group level are the proportion of people who are likely to cooperate and their characteristics relative to the group; that is, whether they belong to the weaker or stronger parts of the group.[95] Other questions include: How can

[92] Barak-Corren, Netta, and Yael Kariv-Teitelbaum. "Behavioral responsive regulation: Bringing together responsive regulation and behavioral public policy." *Regulation & Governance* 15 (2021): S163–S182.

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

[94] In the relevant chapters, I will discuss some of the working papers in which cross-domain predictability of human misconduct is examined normatively (with Aronson and Lobel) and behaviorally (with Assoulin, Slater, and Gilad).

[95] For the proportion of people in the group in the context of honesty, see Gneezy, Uri, Bettina Rockenbach, and Marta Serra-Garcia. "Measuring lying aversion." *Journal of Economic Behavior &*

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regulators determine in advance whether or not the advantages from voluntary compliance will be outperformed by a complete lack of compliance? How likely it is that people will hold moral views that reflect those of the state? Are there people who are more likely to engage in voluntary compliance across all disciplines? These issues become important at the level of the regulatory toolbox available to policymakers. Here, there are many barriers to relying on regulatory tools aimed at enhancing voluntary compliance in order to create a culture of compliance and trust within states. Indeed, many models have attempted to offer various taxonomies of compliance. For example, Valerie Braithwaite's motivational postures of commitment differentiates between the following modes of compliance: capitulation, resistance, disengagement, and game playing, which are helpful for thinking about such variation.[96]

SITUATIONAL ANALYSIS OF VOLUNTARY COMPLIANCE

The variation in compliance motivation discussed in this chapter with regard to the likelihood of voluntary compliance may not depend on just who the particular individual is, but also on the environment in which that individual is operating.[97] Behavioral ethics research indicates that most people are capable of engaging in ordinary unethicality if they are able to deceive themselves, either deliberately, by finding a justification for noncompliance, or with limited deliberateness, by engaging in motivated reasoning in ambiguous situations.[98] Thus, according to this approach, when policymakers are interested in determining when they can trust people to exhibit a greater likelihood of cooperation, they need to pay special attention to the situational characteristics that might enhance the likelihood that more people will cooperate voluntarily with the government's approach. These characteristics include lack of ambiguity, clear victims, the logic behind the regulation, and visible compliance behavior.[99]

LACK OF RESEARCH ON CONTEXTUAL FACTORS

While, as suggested, the literature on voluntary compliance is vast and multifaceted, it nevertheless is unable to generalize beyond the specific context being studied.

Organization 93 (2013): 293–300; 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.

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

97 Feldman, Yuval, and Yotam Kaplan. "Big data and bounded ethicality." *Cornell Journal of Law and Public Policy* 29 (2020): 39–93.

98 Dana, Weber, and Xi Kuang. "Exploiting moral wiggle room."

99 Feldman and Kaplan, "Big data and bounded ethicality."

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There are indeed several predictors indicating that, in a given regulatory context, more lenient regulatory measures are likely to be at least as effective as more coercive ones. However, one can never suggest that voluntary compliance is always better as its efficacy is based upon numerous indicators, such as cultural and social norms, personality, institutions, characteristics of the regulatory environment, and more. That said, there is limited data about how these factors interact, which thus constrains the ability of regulators to identify the situations in which less coercive measures are more likely to be effective. For example, it is known that, in certain countries, people can be trusted to pay their public transportation fares without coercion.[100] The problem is that these anecdotal findings are not consistent and therefore offer little to no evidence about what mechanisms drive the success of this voluntary compliance. Nor do they offer any guidance as to how similar trust-based systems might work in other countries or contexts.

ARE NUDGES VOLUNTARY COMPLIANCE?

Another regulatory approach, which will be discussed more extensively in Chapters 2 and 3, relates to the role of nudges in shifting people's behavior. This approach is distinct from the previous discussion but complements our understanding of behavioral regulation.

Much of the original research on nudges focused on demonstrating that they are not paternalistic, despite their early applications in areas such as nutrition, consumerism, and long-term savings. These studies aimed to demonstrate that nudges can influence behavior while preserving individual autonomy. As Thaler and Benartzi's research shows,[101] nudges are designed to guide choices without imposing restrictions. However, the fact that they are employed with limited awareness by the public could potentially lead to them being perceived as a more sophisticated form of coercion.[102] This literature is important in the context of compliance research because

[100] Sohail, Muhammad, D. A. C. Maunder, and Sue Cavill. "Effective regulation for sustainable public transport in developing countries." *Transport Policy* 13.3 (2006): 177–190; see also Uslaner, Eric M., Barabino Benedetto, Sara Salis, and Bruno Useli. "Fare evasion in proof-of-payment transit systems: Deriving the optimum inspection level." *Transportation Research Part B: Methodological* 70 (2014): 1–17; Barabino, Benedetto, Sara Salis, and Bruno Useli. "What are the determinants in making people free riders in proof-of-payment transit systems? Evidence from Italy." *Transportation Research Part A: Policy and Practice* 80 (2015): 184–196; Guarda, Pablo, et al. "Decreasing fare evasion without fines? A microeconomic analysis." *Research in Transportation Economics* 59 (2016): 151–158.

[101] Thaler, Richard H., and Shlomo Benartzi. "Save more tomorrow™: Using behavioral economics to increase employee saving." *Journal of Political Economy* 112.S1 (2004): S164–S187.

[102] Hausman, Daniel M., and Brynn Welch. "Debate: To nudge or not to nudge." *Journal of Political Philosophy* 18.1 (2010): 123–136; Rebonato, Riccardo. "A critical assessment of libertarian paternalism." *Journal of Consumer Policy* 37 (2014): 357–396; Hansen, Pelle Guldborg, and Andreas Maaløe Jespersen. "Nudge and the manipulation of choice: A framework for the responsible use of the nudge approach to behaviour change in public policy." *European Journal of Risk Regulation* 4.1 (2013):

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it unravels many of the dichotomies that frequently appear in the regulation literature. In these cases, governments either attempt to focus on external factors, such as prices, or on internal factors, such as morality.[103]

On one hand, the whole of the debate around liberal paternalism is based on the argument that people are free to choose and that nudges do not force them to make any particular choice or to choose at all.[104] On the other hand, much of the research on nudges focuses on the lack of self-reflection and transparency associated with them and on the fact that many nudges, even the basic ones, focus on biases such as the status quo.[105] As a result, it is possible to argue that nudges could be viewed as supporting a regime with limited individual deliberation.

Clearly, when people are being "gently pushed" to behave in a certain way by some default-rule choice architecture, it is very hard to define whether their compliance motivation is voluntary. When voluntary is defined as noncoerced, then clearly behaving in a certain way due to the default rule does not involve coercion. However, if people do not know why they behave in a certain way, their self-perception of voluntary choice is inevitably missing.[106]

At the same time, it is impossible to ignore the importance of nudges in the process of sanctions and monitoring-free regulation. Nudges are used in many cases where laws cannot be used, such as to boost vaccination and to encourage organ donation, healthier diets, and long-term savings. These are cases where the preservation of choice is crucial and thus laws are naturally less likely to be successful.[107] Nonetheless, nudges are increasingly being used in contexts such as employment discrimination and tax compliance,[108] where laws could otherwise be used.

In such situations, it is important to also discuss the expressive value of the mechanisms that are used. For example, through some choice architecture modifications,

3–28; White, Mark D. "Why nudges are unethical." In *The manipulation of choice: Ethics and libertarian paternalism*, edited by Mark D. White, Palgrave Macmillan US, 2013: 81–102; Bovens, Luc. "The ethics of nudge." In *Preference change: Approaches from philosophy, economics and psychology*, edited by Till Grüne-Yanoff and Sven Ove Hansson, Springer Netherlands, 2009: 207–219; Science and Technology Committee. "Behaviour change." House of Lords report, 2011. https://publications.parliament.uk/pa/ld201012/ldselect/ldsctech/179/17902.htm.

[103] Parker, Christine. *Reducing the risk of policy failure: Challenges for regulatory compliance: Final version*. OECD, 2000.

[104] Loewenstein, George, and Nick Chater. "Putting nudges in perspective." *Behavioural Public Policy* 1.1 (2017): 26–53; Sunstein, Cass R. "Do people like nudges?" *Administrative Law Review* 68 (2016): 177–232.

[105] Bruns, Hendrik, et al. "Can nudges be transparent and yet effective?" *Journal of Economic Psychology* 65 (2018): 41–59.

[106] Sunstein, Cass R. "People prefer System 2 nudges (kind of)." *Duke Law Journal* 66 (2016): 121–169.

[107] Grüne-Yanoff, Till, and Ralph Hertwig. "Nudge versus boost: How coherent are policy and theory?" *Minds and Machines* 26.1 (2016): 149–183.

[108] Bohnet, Iris, Alexandra Van Geen, and Max Bazerman. "When performance trumps gender bias: Joint vs. separate evaluation." *Management Science* 62.5 (2016): 1225–1234; Fonseca, Miguel A., and Shaun B. Grimshaw. "Do behavioral nudges in prepopulated tax forms affect compliance? Experimental evidence with real taxpayers." *Journal of Public Policy & Marketing* 36.2 (2017): 213–226.

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it may be possible to encourage people to avoid discriminating and not just to hire minorities.[109] Consequently, in areas where we have no alternative, nudges are clearly preferable to simply asking the public nicely to behave in a certain way. However, it should be acknowledged that from the perspective of the book, which is interested in long-term effects on compliance, the short-term compliance achieved thorough nudges has its limitations.[110]

Recent behavioral public policy scholarship has explored agency-preserving nudges, particularly the "nudge-plus" approach, which enhances policy effectiveness by incorporating opportunities for personal reflection.[111] Such nudges might enhance our ability to combine the efficacy of nudges with some advantages, regarding a process of reflection and internalization.

RESPONSIVE REGULATION AND THE CHALLENGE OF MOTIVATIONAL HETEROGENEITY

A key concept in behavioral approaches is responsive regulation, which involves predicting behavior and adapting regulatory strategies to the characteristics of people and organizations requiring oversight. This comprehensive framework acknowledges that effective regulation requires a mix of incentives and deterrence, calibrated to different contexts and compliance motivations. By analyzing how different groups respond to various regulatory tools,[112] policymakers can better understand when noncoercive approaches work best and recognize that a one-size-fits-all regulatory approach is unlikely to succeed across diverse populations.[113] According to this analysis, states must instead rely on a sequential approach where more lenient means precede increasingly harsher measures against those who refuse to engage in voluntary cooperation. This book will examine some of the aspects of responsive and flexible regulation paradigms. It seeks to identify and classify the factors that need to be addressed when determining how to reach a level of voluntary compliance that will be sensitive to the risks to the public associated with different regulatory settings.

[109] Bohnet, Van Geen, and Bazerman. "When performance trumps gender bias."

[110] Feldman, Yuval, and Orly Lobel. "Behavioral trade-offs: Beyond the land of nudge spans." In *Nudge and the law: A European perspective*, edited by Alberto Alemanno and Anne-Lise Sibony, Bloomsbury, 2015: 301–323.

[111] Banerjee, Sanchayan, and Peter John. "Nudge plus: Incorporating reflection into behavioral public policy." *Behavioural Public Policy* 8.1 (2021): 1–16.

[112] E.g., compare with Figure 0.1.

[113] See: Braithwaite, Valerie. "Responsive regulation and taxation: Introduction." *Law & Policy* 29.1 (2007): 3–10; Job, Jenny, Andrew Stout, and Rachael Smith. "Culture change in three taxation administrations: From command-and-control to responsive regulation." *Law & Policy* 29.1 (2007): 84–101; Ivec, Mary, and Valerie Braithwaite. "Applications of responsive regulatory theory in Australia and overseas: Update." *RegNet Occasional Paper* 23 (2015); Hill, Linda, and Liz Stewart. "'Responsive regulation' theory and the Sale of Liquor Act." *Social Policy Journal of New Zealand* 11 (1998): 49–66.

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VOLUNTARY COMPLIANCE AND THERAPEUTIC JURISPRUDENCE

Part of the potential advantage of voluntary compliance involves people's well-being in addition to their increased personal commitment and perception of better compliance. If people are given the choice to comply, they will enjoy better cognitive and emotional capacities for dealing with uncertainties, adapting, and demonstrating greater resilience.[114] This aspect of the book's examination of voluntary compliance will draw on the classical literature about therapeutic jurisprudence,[115] as well on the data accumulated in research on happiness,[116] in an effort to improve our understanding of the advantages of having people comply voluntarily and not as a response to external pressure. Understanding the causal relationships is highly complicated. The government's ability to rely upon noncoercive mechanisms is strongly connected to the type of society in which such mechanisms are likely to work. In addition, policymakers rely heavily on expectations that people are more likely to benefit from being able to cooperate voluntarily.

CAN CORPORATIONS BE TRUSTED?

Another important issue of great significance from a regulatory standpoint is whether corporations can be trusted by regulators and policymakers. As discussed in Chapter 10, with much of the debate today on self-regulation involving businesses and corporations, considerable research emphasizes the importance of understanding corporations' impact on the environment rather than focusing on individual behavior.[117] Corporations and businesses' ethical behavior has come to be viewed as an aspect of their performance and, as a result, has been subject to increasing interest.[118] Although some aspects of my research indicate that corporations might be hotbeds for unethicality,[119] there are many reasons to believe that the bureaucratic and transparent nature of corporate operations, as well as their greater sensitivity to reputational mechanisms,[120] might make them more likely than individuals to

[114] Patall, Cooper, and Civey Robinson. "The effects of choice on intrinsic motivation and related outcomes," 270.

[115] Winick. "The jurisprudence of therapeutic jurisprudence," 184; Wexler. "Therapeutic jurisprudence," 125.

[116] Posner and Sunstein, eds. *Law and happiness*; Bronsteen, Buccafusco, and Masur. *Happiness and the law*.

[117] Chater, Nick, and George Loewenstein. "The i-frame and the s-frame: How focusing on individual-level solutions has led behavioral public policy astray." *Behavioral and Brain Sciences* 46 (2023): e147.

[118] McGuire, Jean B., Alison Sundgren, and Thomas Schneeweis. "Corporate social responsibility and firm financial performance." *Academy of Management Journal* 31.4 (1988): 854–872.

[119] Feldman, Yuval, Adi Libson, and Gideon Parchomovsky. "Corporate law for good people." *Northwestern University Law Review* 115 (2020): 1125.

[120] Swift, Tracey. "Trust, reputation and corporate accountability to stakeholders." *Business Ethics: A European Review* 10.1 (2001): 16–26.

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consistently adhere to self-regulation. Another aspect of the focus on the corporate culture involves examining data about corporate behavior about trust in their employees and customers.[121] Part of what the book aims to examine is whether organizational practices can be applied to the state context. While many corporations engage in various strategies to enhance the feeling of trust by their customers and employees,[122] states rarely demonstrate similar motivation, perhaps because of their size and limited ability to know how their citizens will behave.

VOLUNTARY COMPLIANCE: THE NORMATIVE DILEMMA

As this book unfolds, we will develop a new conceptual paradigm that will explore the benefits of voluntary compliance for democratic states across a few regulatory domains. Our analysis includes an examination of the factors that can undermine the attempt of states to achieve voluntary compliance. We will also discuss what needs to be done to better understand the interaction between individual, situational, regulatory, and cultural dimensions in order to maintain voluntary compliance. In addition, the book will suggest methods for considering how to balance the risk to the public of reduced monitoring with the advantages to the public of regulated entities that feel they are trusted by the state. The nature of this analysis inevitably changes when discussing more extensive types of regulations where the target population includes broad layers of the public. Chapter 5 examines a crucial paradox: When governments shift from monitoring to seeking public collaboration, they may inadvertently create more problematic regulatory approaches. While appearing gentler on the surface, these strategies could prove more manipulative from a democratic standpoint and more intrusive from a liberal perspective. Some of the questions that need to be asked include: What contextual factors should regulators and experts consider when deciding which approach to take? What factors can they take into account when assessing what proportion of the public can be trusted? In particular, what individual and group related factors can be considered when trying to assess the likelihood that individuals or segments of the population can be trusted to cooperate with more trusting regulatory approaches?[123] How do these factors influence the responsive regulation approach? In addition, how might the current empirical data and theories on how voluntary compliance enhances people's mental well-being intersect with the therapeutic jurisprudence literature?

[121] Garland, *Punishment and modern society*.

[122] Keh, Hean Tat, and Yi Xie. "Corporate reputation and customer behavioral intentions: The roles of trust, identification and commitment." *Industrial Marketing Management* 38.7 (2009): 732–742.

[123] See work in progress by Ori Aronson, Yuval Feldman, and Orly Lobel. "The behavioral challenges of trust-based regulation: Navigating the complexities of past behavior as a predictor." Working paper available at SSRN 5117987 (2025). https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5117987.

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WHICH REGULATIONS DRIVE VOLUNTARY COMPLIANCE?

Throughout the chapters exploring the association between regulation and trust, we will address the question of which regulatory interventions are more likely to lead to voluntary compliance. As explained in the beginning of the chapter, it is not completely clear whether indeed focusing on intrinsic motivation is more likely to lead to voluntary compliance. First, the distinction between the different instruments is not distinct enough. Furthermore, in many cases, nudges are designed in such a way that an approach we perceive as having one effect is actually working through a different mechanism. Is it always the case that market mechanisms are unlikely to lead to voluntary compliance in the long run? For example, consider Milkman's work on habit formation.[124] She found that people tend to adopt behaviors in a consistent, almost mechanistic way, basically without relying on factors that we discuss such as trust or reflecting on knowledge or other types of moral reasoning. Chapter 3 argues that it is not clear at all which legal instrument leads to more coercion and that the boundaries between the different instruments are vague. Additionally, Chapter 5 will address the limitations of voluntary compliance. It is possible that voluntary compliance could lead states to engage in manipulative practices to influence attitudes, which may ultimately limit people's voluntary choices.

Furthermore, it is possible that by imposing guilt on people through the use of moral-reasoning mechanisms, we might ensure voluntary compliance, but we might also cause damage by imposing mental costs on them. This is because situations where noncompliance might cause them to feel worse about themselves can be mentally and emotionally taxing.[125] Guilt-based motivation has many advantages from the state's perspective, as it affects people's behavior in much the same way that religion does.[126] However, as we know from studies in education,[127] for example, it is not entirely clear that such an approach should be adopted by a liberal state in the context of the overall welfare of the people, even if doing so can reduce monitoring costs and enhance trustworthiness and social capital in society.

WHAT ARE WE INTERESTED IN CHANGING?

Another important topic, examined in Chapter 3, relates to the question of what we are trying to change when we talk about voluntary compliance. Are we trying

[124] 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.

[125] Carlsmith, J. Merrill, and Alan E. Gross. "Some effects of guilt on compliance." *Journal of Personality and Social Psychology* 11.3 (1969): 232–239.

[126] London, Perry, Robert E. Schulman, and Michael S. Black. "Religion, guilt, and ethical standards." *Journal of Social Psychology* 63.1 (1964): 145–159.

[127] Baumeister, Roy F. "Inducing guilt." In *Guilt and children*, edited by Jane Bybee, Academic Press, 1998: 127–138.

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to change people's motivation, which basically means also their preferences, attitudes, and habits? As suggested, while intrinsic motivation and voluntary compliance might be viewed as related, they are in fact quite distinct concepts. Hence, we do not necessarily need to change people's intrinsic motivations in order to achieve voluntary compliance. The various perspectives on voluntary compliance outlined in this chapter indicate that the relationships between its elements are not necessarily mutually exclusive. Furthermore, when discussing intrinsically motivated voluntary compliance, we are not necessarily talking about changing people's intrinsic motivation. Nonetheless, it may certainly be possible to prime or stimulate people's preexisting intrinsic motivation by telling them, for example, that doing the moral thing in a given context means complying with the law.[128] Such an approach is common in many field studies conducted in a tax context.[129] Here, we do not suggest changing people's morality, but rather building on an existing moral sentiment to improve compliance. However, even with this distinction, many problems remain with such an approach, as will be discussed in Chapter 5.

IS CULTURE MALLEABLE?

A similar question arises with regard to culture. If we want to examine the ability of governments to trust the public, do we need to change the culture, or is it enough to simply understand the culture? This will enable us to determine whether voluntary compliance is a viable option. A third option might be to make small modifications to a culture to allow for certain voluntary practices to work. Improving voluntary tax compliance may require targeted interventions rather than comprehensive changes to all known compliance factors. Chapter 6 is dedicated to a discussion about the interaction between culture and voluntary compliance. It also reviews the debate among scholars about whether policymakers can lead cultural change.[130] This can be done either directly, by focusing on policies related to solidarity (as was done in the Nordic counties), or indirectly, by addressing immigration (as related to the research by Putnam on diversity and social capital).[131]

SUMMARY

This first chapter introduces the central dilemma facing governments in their approach to regulatory compliance. While voluntary compliance is often viewed as

[128] Feldman. "The expressive function of trade secret law."

[129] Luttmer and Singhal. "Tax morale"; Bott, Kristina M., et al. "You've got mail: A randomized field experiment on tax evasion." *Management Science* 66.7 (2020): 2801–2819.

[130] Please see our discussion of both the work of Gelfand and of Hofstade in Chapter 6 discussing culture and compliance.

[131] Putnam, Robert D. "E pluribus unum: Diversity and community in the twenty-first century: The 2006 Johan Skytte Prize Lecture." *Scandinavian Political Studies* 30.2 (2007): 137–174.

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the ideal, sustainable, and most beneficial form of cooperation between states and citizens, policymakers frequently resort to more coercive measures due to uncertainty about public response. This chapter explores the complexities of voluntary compliance, examining various perspectives from different social sciences and highlighting the challenges in predicting when and to what extent the public can be trusted to comply willingly with laws and regulations. It examines the nuances of what constitutes "voluntary" compliance, discussing concepts such as intrinsic motivation, nudges, and the role of culture in shaping compliance behaviors.

The chapter also outlines key issues that will be addressed throughout the book, including the balance between coercive and cooperative regulatory approaches, the impact of different regulatory tools on compliance motivation, and the potential long-term effects of various compliance strategies on trust and social capital. By introducing these themes, the chapter sets the stage for a comprehensive exploration of voluntary compliance across different regulatory domains. The subsequent chapters will build on this foundation, examining specific areas such as tax compliance, environmental regulations, and public health measures, while also considering the roles of technology, culture, and behavioral insights in shaping effective and ethical regulatory policies.

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