Preface

Consider the following real-life example from the COVID pandemic to illustrate the central dilemma this book addresses:

During a pandemic, a state must decide how to admit children to schools safely. There are two options:

1. Install thermometers at school entrances, operated by staff, to check each child's temperature.
2. Implement a system where parents sign daily pledges, affirming they've checked their child's temperature at home and the child is fever-free.

Each approach has its merits and drawbacks. The first method, reminiscent of classical command-and-control regulation, is highly effective but has several disadvantages: First, it may slow down the entry process; second, it could potentially intimidate children; and lastly, it's costly to staff each school daily with an inspector! Furthermore, it might prevent the ability of the parent and the child to develop any sense of autonomy in fulfilling their civic duties. In areas where no such enforcement exists, relying on some external regulator or enforcer might prove problematic (see discussion in Chapter 3 regarding the different crowding-out processes).

The second – trust-based – approach, relying on parental responsibility, seems appealing in terms of the costs being saved and the positive effects on society but presents its challenges:

- It requires trusting parents to conduct and report accurate checks.
- It necessitates a system to ensure pledges are consistently submitted.
- It ignores the possibility of false reports despite the pledges, especially by those parents whose kids have a fever, but who might have to work and hence will send their children to school.
- If parents are negligent or dishonest this might allow the pandemic to spread.

This scenario encapsulates the book's core exploration: the trade-offs between direct command and control regulation and trust-based systems in achieving public health and safety goals. It raises questions about the balance between effectiveness, cost, personal responsibility, and social trust in regulatory approaches.

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This example illuminates a crucial question: To what extent should policymakers design their strategies based on the fear of those who might exploit the state's trust? We must consider the threshold of cooperation necessary for policymakers to shift from command-and-control regulatory approaches to trust-based policies.

The dilemma lies in whether to focus on worst-case scenarios, preparing for those who will only comply under coercion and monitoring, or to design policies such as self-regulation that can absorb a certain level of noncompliance, assuming such lack of cooperation will not escalate beyond manageable levels. This balance is critical in determining the overall effectiveness and sustainability of regulatory regimes.[1]

To what extent can states trust their citizens to cooperate with laws and regulations with the least possible use of coercive measures? What insights can the state and the public gain from adopting a legitimacy-based approach and to what extent is achieving legitimacy itself a desirable goal from a liberal democratic perspective? Our interest is not just theoretical but also related to an applied interest in the reliance on voluntary compliance:

Scalability: Can interventions that promote voluntary compliance, often tested in controlled settings, be effectively implemented on a larger scale among a heterogeneous population? This question reflects a wider discussion in behavioral economics about the challenges of scaling-up interventions from laboratory or small-scale field experiments to large-scale policy implementations.

External validity: Do the findings observed in laboratory settings also apply to real-world contexts with genuine stakes and complex motivational structures? Can voluntary compliance strategies be applied universally across diverse cultural, economic, and regulatory contexts?

Long-term effects: We lack robust longitudinal data to confirm whether the positive outcomes of voluntary compliance initiatives persist over a long period of time. What are the situations in which voluntary compliance proves to be more effective, cost-efficient, and expedient than traditional regulatory approaches?

THE INABILITY TO DEFINE **VOLUNTARY** COMPLIANCE

It should be stated upfront that "voluntary" is one of the most complex concepts to define. Part of the problem with voluntary compliance is related to understanding what exactly "voluntary" means in this context. Part of the discussion needed to advance our understanding of voluntary compliance involves distinguishing between various optional dichotomies. These distinctions can help clarify several aspects of compliance. They shed light on whether compliance is spontaneous or induced and reveal the regulatee's awareness of their decision to comply, as seen

[1] Coglianese, Cary, and Evan Mendelson. "Meta-regulation and self-regulation." In *The Oxford handbook on regulation*, edited by Martin Cave et al., Oxford University Press, 2010: 146–168.

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in many nudge scenarios. Furthermore, they illuminate the interplay between voluntary actions and extrinsic measures, such as optional positive incentives. Lastly, these distinctions help us evaluate the true extent of the coercion-free nature of voluntary compliance measures. By examining these aspects, we can gain a more nuanced understanding of the complex dynamics involved in compliance behavior.

These discussions could lead to a much more nuanced and meaningful understanding of the antecedents of cross-sectional variation in levels and types of voluntary compliance. Such understanding may be promoted by focusing on dependent variables beyond the classical regulatory and compliance measures of impact (e.g., proportion and typology of cooperators, wide-ranging impact of regulatory tools, quality of cooperation, beyond-compliance measures of cooperation, and the likelihood of internalization processes following the regulatory intervention). Additionally, it is important to focus on the long-term effect of regulation (by measuring attitudes repeatedly on the same panel).

Chapters 1–3, and to some extent Chapter 4, explore the degree to which voluntary actions are truly free from coercion. Can we truly determine when people's actions are independent of indirect state coercion through mechanisms like market reputation? We examine various interpretations of voluntary compliance, considering whether it stems from intention, intrinsic motivation, morality, or noninstrumental factors. Our working definition is: behavior primarily motivated by factors other than state deterrence, such as reciprocity, trust, morality, or belief in the law's content.

This represents an ideal form of compliance achievable in certain contexts. The book examines the advantages and disadvantages of pursuing this ideal and whether regulators can effectively build upon it, or if some degree of monitoring will always be necessary, potentially preventing this ideal from being fully realized.

Returning to our COVID-19 example, we must weigh the long-term implications of trust-based approaches (such as parent pledges) against more stringent measures (like mandatory temperature checks). The key question becomes: Under which regulatory regime will the overall welfare of society, encompassing both public health and social capital, be maximized both in the short term and in the long term?

This consideration extends beyond immediate compliance rates to include broader societal impacts. Trust-based approaches may foster a sense of civic responsibility and strengthen social cohesion, potentially leading to more sustainable long-term compliance. Conversely, strict enforcement might ensure higher immediate compliance but could crowd out trustworthiness and diminish voluntary cooperation over time.[2] Some recent studies around this topic have come up with mixed results depending on punitive expectations of the public, the dimensions of strict enforcement, and the culture of a given country.[3]

[2] Bohnet, Iris, Bruno S. Frey, and Steffen Huck. "More order with less law: On contract enforcement, trust, and crowding." *American Political Science Review* 95.1 (2001): 131–144.

[3] Grimmelikhuijsen, Stephan, et al. "Does enforcement style influence citizen trust in regulatory agencies? An experiment in six countries." *Journal of Public Administration Research and Theory* 35.1 (2024): muae018.

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Moreover, we must consider the adaptability of these approaches. As societal norms and circumstances evolve, how well can each regulatory strategy adjust to maintain effectiveness? The optimal approach may involve a nuanced combination of trust-based and enforcement-oriented policies, calibrated to the specific context and adaptable to changing conditions.[4]

This book addresses a crucial debate within the behavioral legal policy literature: Should we focus on changing people's intrinsic motivations toward law and regulation, or should we concentrate on altering situations through regulatory instruments such as corporate pollution controls or tax incentives? Or maybe in light of the booming concept of nudges – which are not coercive on one hand but don't focus on intrinsic motivation on the other – this research provides important insights into the limitations and potential of behavioral interventions.[5] While situational changes often yield more immediate and measurable success, we argue that fostering intrinsic motivation remains vital for long-term policy effectiveness.[6] We recognize that achieving and verifying intrinsic motivation may be unrealistic, which necessitates adopting a broader definition of voluntary compliance as noncoercive or nondeterrent regulatory approaches. However, even these approaches have limitations, as some form of monitoring will inevitably be necessary.

The fundamental tension in regulatory policy lies between traditional command-and-control approaches and more cooperative, trust-based regulatory strategies. While command-and-control regulation relies primarily on monitoring and sanctions to ensure compliance, trust-based approaches attempt to achieve compliance through less coercive means, such as pledges, self-regulation, and appeals to intrinsic motivation. This distinction raises important questions about how regulators should approach their mandate: Should they maintain strict oversight and enforcement, or can they effectively rely on cooperative approaches that foster voluntary compliance?

While ideally, compliance would be intrinsically motivated – what John Braithwaite calls "commitment" rather than "capitulation"[7] – the relationship between regulatory approach and compliance motivation is complex and context-dependent.

This book adopts an inclusive working definition of voluntary compliance that extends beyond purely intrinsic motivation to encompass all noncoerced compliance. While this broader definition presents certain theoretical challenges (discussed in Chapter 2), it offers practical advantages over focusing solely on intrinsic motivation. By examining compliance with noncoercive regulatory initiatives, we

[4] Gunningham, Neil, and Darren Sinclair. "Smart regulation." In *Regulatory theory: Foundations and applications*, edited by Peter Drahos, Australian National University Press, 2017: 133–148.

[5] 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.

[6] Feldman, Yuval, and Oren Perez. "How law changes the environmental mind: An experimental study of the effect of legal norms on moral perceptions and civic enforcement." *Journal of Law and Society* 36.4 (2009): 501–535.

[7] Braithwaite, John. "The essence of responsive regulation." *UBC Law Review* 44 (2011): 475–520.

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can more objectively identify and analyze voluntary compliance without determining individual psychological motivations, which are inherently difficult to verify. Nevertheless, much of our discussion centers on fostering intrinsic motivation, as this represents the most desirable form of voluntary compliance.

This analysis suggests that rather than viewing command-and-control and trust-based regulation as mutually exclusive alternatives, regulators might benefit from understanding when and how to deploy different regulatory tools to achieve optimal compliance outcomes. The goal should be to identify conditions under which trust-based approaches can effectively foster voluntary compliance while maintaining sufficient oversight to protect public interests. The difficulty is in understanding whether voluntary compliance is related to intrinsic motivation, awareness, or simply having some discretion whether to comply or not.

Our thesis posits that encouraging individuals to adopt and believe in environmentally friendly behaviors is crucial not only for direct impact but also for creating a societal ecosystem that supports broader environmental initiatives. For instance, individuals with strong environmental values are more likely to demand corporate environmental responsibility through mechanisms like ESG (environmental, social, and governance) criteria. Moreover, they are more inclined to support government policies that incentivize environmentally friendly behavior, such as increased environmental taxes.[8]

Thus, the shift in people's environmental beliefs is significant beyond their immediate personal behaviors. It cultivates a sense of personal responsibility to effect change in the world around them, creating a more robust foundation for environmental policy.[9] Relying solely on nudges,[10] while ignoring the role of reflection and autonomy, may, in the long term, lead to a precarious situation where policies lack sustained public backing.[11]

In essence, while immediate behavioral changes are valuable, nurturing intrinsic motivations creates a more resilient and adaptable framework for environmental protection. Ultimately, policymakers must carefully assess the trade-offs between short-term compliance and long-term societal welfare, considering not only the immediate policy goals but also the broader implications for social trust, institutional legitimacy, and civic engagement.

This approach carries multiple risks that require careful consideration. First, it's difficult to predict how many people will cooperate with softer regulatory

[8] Harring, Niklas, and Sverker C. Jagers. "Should we trust in values? Explaining public support for pro-environmental taxes." *Sustainability* 5.1 (2013): 210–227.

[9] Schultz, P. Wesley, et al. "Values and their relationship to environmental concern and conservation behavior." *Journal of Cross-Cultural Psychology* 36.4 (2005): 457–475.

[10] Sunstein, Cass R., and Lucia A. Reisch. *Trusting nudges: Toward a bill of rights for nudging*. Routledge, 2019.

[11] Hertwig, Ralph, and Till Grüne-Yanoff. "Nudging and boosting: Steering or empowering good decisions." *Perspectives on Psychological Science* 12.6 (2017): 973–986.

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approaches. Second, we must evaluate whether high-quality compliance is always necessary. In some contexts, like vaccination, the prevalence of compliance might be more important than its quality. Finally, we must consider the challenges of influencing not just public behavior, but also intrinsic motivation. Are we prepared to address these potential pitfalls?

This book will address these fundamental questions that arise in nearly every aspect of legal and social policymaking. These questions affect a wide range of issues, including compliance with tax laws, environmental regulations, traffic and driving laws, commercial ethics, and, more recently, COVID-19 regulations.

SHORT DESCRIPTION OF THE CHAPTERS IN THE BOOK

To better understand the flow of chapters in the book, please see the following list with their descriptions:

Chapter 1: Introduces the challenges of trusting public cooperation without monitoring and coercion, considering current research on the relationship between concepts such as cooperation and honesty, and examines the effectiveness of voluntary compliance.

Chapter 2: Analyses compliance motivations and their alignment with existing taxonomies: extrinsic vs. intrinsic motivations, cooperation vs. coercion, and trust-based vs. monitoring-based approaches. Explores the advantages of voluntary compliance over coerced compliance both in the short term and in the long term.

Chapter 3: Compares the impact of different regulatory tools (command and control, mandates, and incentives relative to reasoning, honesty oath, and nudge) on the crowding out of different types of intrinsic compliance motivations.

Chapter 4: Investigates moderating factors such as trust-related mechanisms, norms, and institutions, and their ability to explain the relationship between intrinsic motivation and compliance which is free of regulatory coercion.

Chapter 5: Discusses the perils of voluntary compliance, including variation between individuals in the likelihood of voluntary compliance, costs and risks of changing intrinsic motivation by states, and potential risks to the cooperating public. The chapter 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.

Chapter 6: Explores the role of culture (e.g., trust, solidarity, rule of law) in predicting the success of voluntary compliance and its malleability toward trust-based rather than coercion-based regulation.

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Chapter 7: Assesses the potential of technological tools to ensure voluntary compliance without coercion and improve predictability of trustworthiness, focusing on the ethical challenges such differentiation might create.

Chapter 8: Examines the likelihood of voluntary compliance in public health contexts, with emphasis on lessons learned during COVID-19 regarding trust in mask-wearing, social distancing, and vaccine uptake.

Chapter 9: Analyzes voluntary compliance in tax contexts, focusing on the importance of procedural justice and tax morale. Explores conditions under which governments can achieve optimal revenue levels.

Chapter 10: Investigates factors influencing voluntary compliance with environmental regulations, exploring the role of environmental motivation in shaping behavior and analyzing various types of pro-environmental actions.

Chapter 11: Concludes with normative messages on contexts where states can trust public cooperation without coercion, addressing jurisprudential and normative aspects of governments attempting to gain public cooperation without reliance on coercion

To help map the richness and the challenges of the book the following series of figures will be presented:

Figure 0.1 illustrates the rich tapestry of literature on voluntary compliance and its competing predictions regarding compliance motivations and drivers. At its center, the figure maps the parallel relationship between regulatory approaches (from coercive to cooperative) and motivational factors (from extrinsic to intrinsic). The right side presents contextual examples explored throughout the book, including cultural variations, and specific domains such as COVID-19 responses, environmental behavior, taxation, and ethical compliance (detailed in Chapters 6 and 8–10).

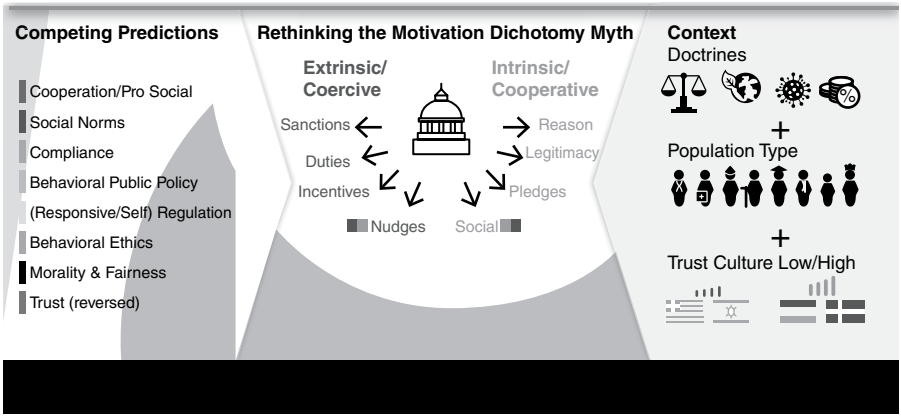


FIGURE 0.1 High variance in the likelihood of voluntary compliance generation and efficacy.

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Figure 0.2 unpacks the concept of *effective* voluntary compliance across three dimensions. The left section addresses descriptive challenges, highlighting the limitations and contradictions in current data regarding the effectiveness of different regulatory interventions (explored in Chapters 2 and 4). The center examines the multidimensional impact of *effective* voluntary compliance across temporal, societal, and doctrinal contexts, arguing that its social and behavioral benefits extend beyond immediate compliance outcomes. The right section confronts normative challenges, including the role of governmental influence in fostering internalization and trust (Chapter 5) and the emerging reliance on technology in trust-based compliance systems (Chapter 7).

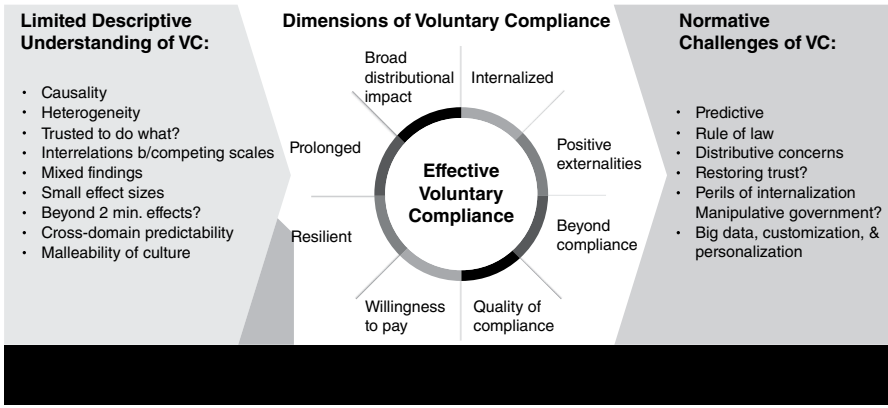


FIGURE 0.2 The challenges of effective voluntary compliance.

Figure 0.3 organizes diverse regulatory and compliance motivation approaches into paired dichotomies, revealing the relationship between regulatory strategies and compliance outcomes. As detailed in Chapters 3 and 4, this framework demonstrates that the voluntary compliance dilemma extends beyond the simple coercion–cooperation divide, encompassing broader questions about achieving public cooperation with laws and regulations.

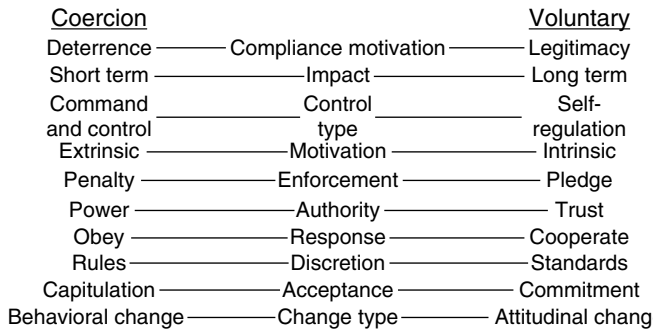


FIGURE 0.3 Regulatory style and compliance.

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Figure 0.4 maps the multiple interpretations of "voluntary compliance," underscoring the concept's complexity and its relationship with the regulatory strategy. Chapter 1 examines how different theoretical traditions contribute distinct layers to our understanding of voluntary compliance, creating a multifaceted framework for analyzing compliance behavior.

Nature of Voluntariness	**Regulatory Approach**
Spontaneous	Order without law
Not coerced	No Sanction / monitoring?
Market like decision	Positive / negative incentives
Intrinsically motivation	Reasoning
Lack of Awareness	Habit / Nudge
Mandated	Duty
Reputation	Social norms
Citizenship	Legitimacy / trust
Moralistic	Guilt

FIGURE 0.4 The many accounts of voluntary compliance.

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