## **Chapter 3. Internalization versus Crowding Out**

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In the previous chapter, we discussed the behavioral mechanisms underlying voluntary compliance and began to examine the interaction between intrinsic motivation and the likelihood of voluntary compliance.[[1]](#footnote-1) We also explored the advantages of intrinsic motivation for compliance[[2]](#footnote-2) in terms of its quality, durability, and ability to lead to a more meaningful internalization process that can also be relevant to other domains.

Most studies on the interaction between internalization and compliance suggest that the state can achieve better results by focusing on intrinsic motivation.[[3]](#footnote-3) Nonetheless, as we have suggested, some intrinsic motivations are better than others. For example, some of the research mentioned in the previous chapter, such as that of Margaret Levi, Tom Tyler, and Audrey Sacks,[[4]](#footnote-4) also raises the advantages of complying due to factors such as legitimacy and fairness rather than morality, as morality might be more subjective and subject to change. Furthermore, it is arguable that the relationship between intrinsic motivation and actual compliance behavior doesn’t exist or at least is very low in a number of settings. For example, as will be discussed in this chapter regarding environmental attitudes, many studies show that the relationship between environmental attitudes and actual environmental behavior is significant but not as strong as might have been expected, given the complexity of the factors moderating the relationship between environmental motivation and environmental behavior.[[5]](#footnote-5) However, other studies focusing on self-determination theory have found a positive relationship between environmental motivation and more frequent engagement in pro-environmental behaviors, such as recycling and energy conservation.[[6]](#footnote-6) Similarly, in the context of tax morality, positive relationships have been found in countries with high tax morale and their levels of tax evasion.[[7]](#footnote-7)

Overall, a variety of factors need to be considered when encouraging compliance, including intrinsic motivation, procedural justice, legitimacy, and the specific details of the behavior in question. A nuanced approach that takes these different factors into account is likely to be more effective than a one-size-fits-all approach based solely on intrinsic motivation, which clearly cannot lead to the needed compliance on its own. There are also numerous factors, such as legitimacy and trust, that could moderate the how a law effects intrinsic motivation. Thus, for example, highly trusted governments could more easily enhance intrinsic motivation through regulation.

With many seeing intrinsic motivation as leading to higher quality compliance, the big question is how can both intrinsic motivation and extrinsic motivation be used at the same time when targeting those who lack intrinsic motivation. In the previous chapters, we have demonstrated that there are many types of intrinsic motivations. In this chapter, we will focus on the effect of recognizing different intrinsic motivations. The mere recognition may have a significant impact on what happens when the law intervenes. In theory, intrinsic compliance motivation appears to positively affect actual compliance behavior. The question we will focus on in this chapter then, is why can’t regulations combine the good value of intrinsic motivation with monitoring and extrinsic measures to achieve the best of all worlds?

We begin this analysis by examining a dichotomous and somewhat unsound way of internalization. We explore how the law can affect intrinsic motivation in the desired direction, as well as how it can lead to crowding out where the existence of the law undermines peoples’ intrinsic motivations. We will now demonstrate that, in fact, when accounting for the variation between different compliance motivations and behaviors, many of the existing findings are expected to be limited or at least have limited predictability. In this chapter, we will also explain how two effects can coexist. The purpose is not intended to compare the two effects or to determine which is stronger, but rather to identify what in the law and in what context is more likely to increase or decrease internalized compliance.

## Crowding out and preference change at the same time?

To what extent is the law able to lead to preference change? What is unique in cases such as not smoking in public places, not picking wildflowers, buckling children into car seats, or even sexual harassment, where the law led to situations where people behaved better, even in contexts where they were less likely to be detected? Could this positive effect be related to the fact that other people were involved, and hence social norms were more likely to function? Or could their success be related to a situation no party benefits from any violation? Why does this effect not operate in cases relating to building code violations? What is unique in those cases where a norm of voluntary compliance has emerged?

This chapter will also review some of the caveats regarding internalization. For example, opinions about the reasons for compliance were widely discussed regarding situations such as the COVID-19 pandemic context. How is this debate related to factors such as trust in science in cases where the science is contested? We will also examine in what contexts coercive measures can create the greatest damage to intrinsic motivation and what type of intrinsic motivation is most likely to be inhibited by coercive measures.

Further discussion is needed not just to identify which approach can perform both functions simultaneously, but which approach is superior. In other words, if laws are crowding out intrinsic motivation, can they still lead to a change in preferences? In theory, both processes can coexist through many possible parallel processes First, people might change their preferences due to their behavior or habit formation, and not necessarily because of intrinsic motivation.

## Why can’t we have it all at the same time?

As suggested in the introduction to this chapter, the most important question we need to address when trying to the find the right balance between different approaches towards intrinsic compliance motivation is why do we need to choose between the different motivations to begin with. Why can’t states focus on both coerced and internalized compliance at the same time?[[8]](#footnote-8) For example, when the state needs to use command and control, self-regulation, nudges, or sanctions at the same time, can some combination work simultaneously, as one approach? This instead of one approach (such as sanctions) interrupting the others (such as trust-enhancing regulation)? However, there are situations where a regulator can have it all, with no or relatively marginal destructive effects. For example, when the regulator can affirm both legitimacy and sanctions at the same time, it is very possible that there might even be a mutual benefit rather than mutual destruction. We will further develop these differences in this chapter as well as in the following chapter that focuses on regulatory approaches to change behavior.

## What exactly does crowding out mean?

As suggested in the introduction to this chapter, most research on crowding out motivation, focuses on how incentives[[9]](#footnote-9) and compensation undermine peoples’ intrinsic motivation to comply and to cooperate (such as in cases of civic duties)[[10]](#footnote-10). That is, the introduction of an extrinsic motivation on people who were originally motivated to cooperate had an effect on how the intrinsic motivation operates, even completely replacing it in extreme cases. The crowding out effect is often considered one of the main reasons why legislation that focuses solely on extrinsic motivation without attempting to influence people’s intrinsic motivation does not achieve the desired outcome.

Traditionally, it has been found that the safest regulatory approach is to focus on the common denominator. This means that a fear of punishment is the way to avoid the need to take a specific motivation into account. A legal approach that ignores the variation in intrinsic motivation is doomed to fail as does not address the complexity and uncertainty associated with targeting individuals’ presumed motivation.[[11]](#footnote-11)

## The problem with the crowding out argument

One of the omissions in the literature on crowding out relates to the question of what type of intrinsic motivation is being crowded out. Are all types of intrinsic motivation likely to be crowded out in the same way? Are there certain types of extrinsic motivations that are more likely to crowd out different types of intrinsic motivation?

Answering these questions is crucial to our ability to predict what we gain or lose from voluntary compliance in cases where the individual who is deciding whether or not to comply does not have a full view of the extrinsic motivation. It is clear that people’s compliance varies depending on whether and how social norms, citizenship, morality, or knowledge are being crowded out.

According to common wisdom, law that focuses on extrinsic motivation is likely to undermine internalized compliance. However, when the law focuses on intrinsic motivation, such as giving reasons, it is likely to enhance internalized compliance. However, it is important to note that many other scholars have suggested that examining processes such as habit formation or cognitive dissonance[[12]](#footnote-12) lead to a better understanding of the effect of law on people’s preferences. These processes are not related to any change in the individuals themselves.

This view is simplistic for a few reasons. First, in theory, law is a broad and multi-faceted concept, and it could target both types of motivation at the same time. A particular law could potentially cause a crowding out. However, this may not occur in every case. In addition, it’s not certain that intrinsic motivation will be crowded out if there is legislation present.

Second, even models that focus on crowding out assume that people are intrinsically motivated to comply. However, this is not always the case, and different people may respond differently to different situations.

Third, it is important to differentiate between what is being reduced: the intrinsic motivation, even in contexts where it already exists, or the desirable behavior. The reduction in intrinsic motivation may not be as relevant to policy if the crowding out effect does not reduce desirable behavior. Of course, there are exceptions where intrinsic motivation plays a central role in the likelihood of compliance. This will be further developed in future chapters.

Fourth, morality or social norms might be crowded out by processes of signaling. Doing something that is moral because it is legal might undermine the social and the self-value of behaving morally.

In contrast, scientific truth is less likely to be crowded out by the law as there is no greater social value to compliance because of science. On the other hand, sanctions have been shown to influence morality but have no impact when scientific truth is an issue. Moreover, it is important to understand that the law may not always be extrinsically or intrinsically oriented. In many cases, it can both be giving rationales to comply and signaling to people that lack of compliance will not be tolerated.

## Not all intrinsic motivations are crowded equally

How exactly are intrinsic motivations crowded out and for how long? Is crowding out, with its many competing mechanisms a social process or an individual one? Various accounts attempt to explain what types of intrinsic motivation are more likely to be crowded out. For example, intrinsic motivation, such as pro-social motivation, is more likely to be adversely affected by external interventions. Will an individual who, believing that a certain institution is legitimate, is likely to comply with the laws it issues, cease to believe in that institution’s legitimacy if there is legal reliance on external measures? Therefore, it is important to focus on understanding which intrinsic motivations we are discussing before we can make any predictions about the likelihood of crowding out.

## The multiple motives problem

Another issue with the crowding out argument is that it assumes the law is one-dimensional and that people’s motivation to comply is uniform. This assumption can be easily refuted. For example, while some studies show that there is some impact of enforcement on tax compliance,[[13]](#footnote-13) very few people believe that deterrence is actually the only factor that explains tax compliance,[[14]](#footnote-14) as many people are complying for cooperative reasons.[[15]](#footnote-15) Specifically, as will be discussed in Chapter 9 focusing on taxes, the more updated view on tax compliance[[16]](#footnote-16) perceives some need for a balance between power and authorities and trust of authorities when attempting to understand the likelihood of tax compliance over time. Even if a dominant motivation, such as cost-benefit, can be identified, it does not undermine the existence of parallel motivations to obey the law. States rarely rely on only one motivation when attempting to change people’s behavior. These problems are also present in the fine-as-a-price paradigm, which is similar to much of the discussion about crowding out in the behavioral economics literature. For example, if an individual recycles because they believe it is important to protect the environment and to signal their virtue to their neighbors, adding sanctions for those who do not recycle will harm only the social signaling motivation, but not the scientific motivation behind the importance of recycling to the future of the Earth. Therefore, this analysis suggests that much of the crowding out research has limitations.

## Variation in the crowding out effect

The preceding discussion suggests that we must consider several moderators when trying to examine the likelihood of legal intervention changing people’s intrinsic motivation. For example when examining intrinsic motivation in the context of COVID, as will be developed in Chapter 8, one can discuss factors such as solidarity[[17]](#footnote-17) and morality on one hand, and trust in science and in scientists on the other.[[18]](#footnote-18) While both could be defined as intrinsic compliance motivations, the crowding out effect of each is likely to be different. For example, some of the concern for solidarity might disappear when sanctions are applied. However, sanctions are less likely to have an effect regarding trust in scientists. Therefore, the crowding out effects of these two types of intrinsic motivation will appear differently, as they are different types of motivation and have different impacts on individuals. Additionally, each of these is likely to react differently to the specific type of sanction.

The list of questions any study on crowding out should include the following—and in the following order:

1. What intrinsic motivation could be crowded out (such as morality, or belief in science)?
2. What is the process of crowding out (for example, over-justification, reaction)?
3. What is the outcome of the crowding out effect (behavior disappears versus behavioral quality is reduced)?
4. Is the quantity or the quality of the compliance behavior reduced?
5. What are the inter-personal effects? What types of people will comply more and what types will comply less?
6. How are the good and bad outcomes being compared? Is the benefit being measured in terms of quality? Are the costs being measured in terms of the number of people who are less likely to cooperate?
7. What are the short-term and the long-term effects?
8. What is the effect on behavior? How does it compare to the effect on attitudes and beliefs (for example, internalizing)?
9. What in the law leads to the crowding out?
10. What processes unfold when a behavior is legalized as well as when sanctions are introduced?

Most of these questions have been ignored in much of the research on crowding out motivation. Furthermore, most of this research focuses on monetary interventions and overlooks the more complex of effect of using regulation and enforcement. While laws and incentives both represent extrinsic interventions, laws are far more complex in their ability to crowd out intrinsic motivation. The law itself communicates with intrinsic motivations,[[19]](#footnote-19) and its effect cannot be reduced to simply increasing the price of behaviors which are against to the law. Given the further complexity we see in the crowding out effect created by laws, we will outline the different processes that could be triggered by a law and that could be considered to be crowding out motivation.

These processes can be divided into two categories: **self-related crowding out** and **social-related crowding out**.

Is the effect of overjustification self-related or social-related? Over justification affects the self-perception of an individual, making them question why they are behaving in a certain way. Alternatively, it can be social-related, undermining the virtue signaling that was present.

## A taxonomy of crowding out processes

As suggested above, there are a few types of crowding out processes.

## Self-related crowding out:

1. *Overjustification*:[[20]](#footnote-20) The idea behind this process which, in a sense, is the original crowding our paradigm, is related to Edward Deci’s original 1971 self-determination model.[[21]](#footnote-21) In this model, people attribute their own behavior to extrinsic rather than intrinsic reasons. The existence of laws, especially when there is an enforcement mechanism, can have an effect similar to that of incentives. In the case of law, in contrast to that of incentives, it is less likely that the law will be removed. Therefore, the classical fear of the crowding out effect when introducing incentives is weaker.
2. *Attention*:[[22]](#footnote-22) Attention is somewhat related to the overjustification effect, where people focus their attention on the extrinsic incentives and fail to account for the effect of intrinsic motivation on their behavior The difference between the expected effects of incentives and laws seems to depend on their relative saliency. This difference may be affected by factors unrelated to the nature of either law or incentives, but rather to how they are being communicated.
3. *Control and trustworthiness*:[[23]](#footnote-23) These are two important factors to consider when examining the effect of laws versus incentives. Incentives can be viewed as giving people more autonomy on one hand, as individuals can choose whether or not to take the incentive. However, in terms of trustworthiness, law is more reliable. Because the law is general and not directed at the individual, there may be less of a problem of feeling untrustworthy. The law can be perceived as a form of guidance, rather than simply a lack of trust in an individual’s ability to behave properly.
4. *Less spontaneous* (such as in the context of pro-social behavior):[[24]](#footnote-24) Another lesser-known mechanism, which has been called crowding out in the literature, involves people become more calculating, less spontaneous when extrinsic measures are present. Rather than thinking about the behavior itself, they are thinking about what they might gain from it. Continuing the hypothetical discussion, this result is likelier to occur with incentives that are more related to measurement than with those related to the legality effect, which might differ.
5. *Cognitive dissonance*:[[25]](#footnote-25) Another important mechanism that is often overlooked is cognitive dissonance, which focuses on the discrepancy between free choice and attitudes. Arguably, when people are either coerced or incentivized to behave in a certain way, they are less likely to feel that they have chosen the behavior. As a result, the likelihood of dissonance being created and attitude change happening is reduced.

### Social-related crowding

1. *Decline in virtue signaling*[[26]](#footnote-26): Virtue signaling involves the more social aspect of crowding out. The decline in virtue signaling, such as the harm caused by monetary incentives to the social virtue of whistle blowing,[[27]](#footnote-28) is mostly related to the fact that people engage in pro-social behavior to gain the approval of others. This approval is greater when the behavior is seen as voluntary. However, this is not the case when others perceive that the behavior is done for money or because of the fear from the law. Even when the legal compliance required by enforcement is limited, people may still engage in some virtue signaling by complying with a legal requirement, even if they don’t have to do so. This is less likely to happen with incentives, unless they are very small, as was the case in the original cognitive dissonance studies.
2. *Bureaucratization of behavior*:[[28]](#footnote-29) This important mechanism is related mostly to legal rather than incentive effects. It refers to the process that occurs when a social practice becomes legalized, and its entire structure must become transparent, documented, equal, and so on. These values associated with legality are important. However, their presence is likely to change how people feel about engaging in these social practices. As Markovitch and Pe’er have shown, affidavits create greater aversion to pledges, partly because of the greater administrative burden[[29]](#footnote-30) associated with them.
3. *Reactance*:[[30]](#footnote-31) The mechanism of reactance, (for example, the provocative effect of law)[[31]](#footnote-32) could be considered partly social and partly individualistic. According to reaction theory, people react negatively to any attempt to limit their freedom of choice. Naturally this is more likely to happen when certain laws threaten the values of a certain social groups, as seen in Israel recently with the enactment of the Basic Law:Israel as the Nation-State of the Jewish People, which drew negative reactions from non-Jewish Israeli citizens. According to reaction theory, such a negative reaction could be provoked on the individual level as well. In any event, such reactive extrinsic effects are less likely to occur when incentives are used.
4. *Relational* (for example, fine is a price)[[32]](#footnote-33): Another mechanism that could be seen as related to the idea of the difference between social and market relations[[33]](#footnote-34) is the use of incentives, which could make change more likely to happen. However, even if legal measures are not included in classical relational theory, they can certainly change the dynamic between friends who do each other favors as well as duty holders who demand that their requests be respected by the other party.

The foregoing general analysis discusses the differences between the more commonly discussed lines of research regarding crowding out in incentive and in legality contexts. One conclusion that can be drawn from this analysis is how difficult it is to predict whether a certain extrinsic intervention will lead to crowding out.

## Can compliance behavior be crowded out?

The crowding out paradigm for internalized compliance, which is based on research on motivation, has a problem. The original studies were related to various tasks people had to do in a lab. Extrinsic measures were introduced. This is different from the paradigm’s application. In contrast to the crowding out context in the law, in compliance contexts, the state often creates the expected behavior and provides instruction for it. Furthermore, even the motivation to internalize a certain behavior could be enhanced by the likelihood that not performing it might lead to an increased cost. Without the original intervention by the state, people might know how they are expected to behave. This is, of course, very different from, for example, students whose love of playing music is undermined by an extrinsic incentive.

Many compliance behaviors are very complex to execute. As a result, people’s willingness to engage in them might not guarantee full compliance. As discussed in Chapter 2, that there is great variation between the different types of motivation, whether they are related to morality, personal preferences, or belief in science. Procedural justice and legitimacy have often been strongly associated with intrinsic motivation in many studies.[[34]](#footnote-35) This may be because people do not need external forces such as incentives or monitoring to behave in a certain way. As also discussed in the previous chapter about trust, many factors related to legitimacy and procedural justice fall into the same category. In this regard, many of the reasons for complying with justice may not be considered intrinsic motivation to begin with. When we think about Deci’s original meaning of intrinsic motivation, we focus on behaviors that are rewarding in and of themselves. However, as we will examine in this chapter, it is possible that certain actions by the government might be perceived as crowding out alternative compliance motivations, even if they are not strictly defined as intrinsic motivation In other words, not all non-instrumental motivation can be seen as intrinsic motivation, and not all crowding out processes are similar to the one discussed in the original crowding out approach. The following will further explore the difference between internalized and non-coerced compliance. This will help build the theoretical framework needed to understand when government interventions become dangerous.

## Internalized versus non-coerced compliance.

As discussed in the first chapter, there is a big difference between internalized compliance, where the main motivation for compliance is intrinsic motivation, and voluntary compliance, which, at a minimum, includes every situation where the individual doesn’t feel coerced. When discussing crowding out in this chapter we are referring to the effect on **internalized compliance** rather than the broad definition of **non-coerced compliance.** However, due to the importance of internalization in ensuring voluntary compliance, it is important to understand what kind of regulatory interventions are likely to enhance or undermine it.[[35]](#footnote-36) At the same time, because of the gap between voluntary and internalized compliance, it is possible that a certain regulatory intervention is likely to adversely affect the process of internalization, while still contributing to the likelihood of voluntary compliance.

This might be related to the fact that the effect on the likelihood of internalization is more long-term and depends on other factors, while the perception of voluntariness is shorter-term. The next chapter, focusing on broader accounts of regulation, will tackle the relationship between regulation and voluntary compliance, rather than internalized compliance, as understood in non-coerced compliance. Moreover, as we discussed in the first chapter, although intrinsic motivation is seen as an integral component of voluntary compliance, changing people’s intrinsic motivation is not the purpose of the law. Additionally, the meaning of what is voluntary is open to interpretation. There is a narrow definition that focuses only on non-coercive compliance, and in that regard, even compliance through nudges and incentives might fall under the category of voluntary.

However, the current chapter takes as its starting position the broader definition of voluntary compliance that includes people who intrinsically want to cooperate. Relying on this intrinsic motivation seems to be the way to achieve sustainable voluntary compliance that doesn’t require continuous external intervention by the state. This definition applies to every situation in which people are not subject to sanctions if they don’t comply. The reason for our focus is the fear of the “crowding out” effect of the law on intrinsic motivation, which can only be discussed in the context of internalized compliance.

## Internalization (crowding in) versus crowding out

Most of the discussion here will focus on the two main processes we are interested in comparing, crowding in (internalization or preference change) versus crowding out.

In abstract terms, one could envision a situation where the law should be able to target only those whose current intrinsic motivation is in opposition to the values of the state. The law could then seek to change their attitudes without the risk of crowding out, as there is no intrinsic motivation that could be harmed. However, clearly, this abstract view is problematic on a few levels. First, people’s level of intrinsic motivation is not truly binary: they don’t either have it or not have it. Second, it is unclear how the state can identify in advance only people with intrinsic motivation. Third, even people with intrinsic motivation might need additional clarification from the state, and it cannot be assumed that they can sustain intrinsic motivation without state encouragement.

An alternative approach that will be developed in the last chapters of this book is related to the acknowledgment that the level of popularity a given law enjoys is limited and, therefore, the likelihood that people will enjoy a high level of intrinsic motivation is also limited. At the same time, since we have argued that even the concept of intrinsic motivation could mean more than one thing, it is not clear whether the effect of law on that intrinsic motivation is identical. For example, it is less likely that intrinsic motivation related to fairness and legitimacy might be affected by external intervention by the law. The reason is that fairness and legitimacy are more related to the institution than to the particular law. Therefore, even the crowding out with regard to a specific law is less likely to be substantial.

## Heterogeneity between people in crowding out effect of intrinsic motivation

Another important aspect of crowding out is related not to the heterogeneity of intrinsic motivations but rather to the difference between people. This refers to the interaction between a person’s initial motivation and the likelihood that their compliance is driven by intrinsic motivations, as described in this chapter. For example, Lewish Kornhauser and colleagues[[36]](#footnote-37) conducted a lab study that manipulated the fine paid for breaching a contract in order to help clarify the mechanisms behind the crowding out effect. They identified a strong interaction between people who had high SVO and people who had low SVO. It has been demonstrated that people who are intrinsically committed to caring for others are more likely to be negatively affected by external incentives, such as paying a fine. Kornhauser and colleagues’ lab experiment suggests that this intuition shared by many others.[[37]](#footnote-38) This suggests that there is a challenge with incentivizing some people while ignoring others, a major issue that we seek to address in this book. Specifically, we are exploring what parts of the public can be trusted and what types of compliance can be expected from them.

## Framing of incentives and crowding out motivations

Another important question to answer is related to the how the extrinsic motivation is perceived by the public whose behavior we are trying to change.[[38]](#footnote-39) It is possible to illustrate this by taking two classical examples of incentivizing people, which might lead to opposite effects. Imagine a student who genuinely loves learning for its own sake. Their intrinsic motivation propels them to engage wholeheartedly in academic tasks. However, when a teacher offers an extrinsic reward (such as extra credit) for completing a task that the student would have undertaken in any event, a subtle shift occurs. The focus moves from the learning process to the outcome (the reward), potentially undermining the student’s intrinsic motivation. Their love for learning may feel diminished. This scenario highlights the delicate balance between external incentives and the inherent joy of learning. In contrast, consider a musician deeply passionate about playing their instrument and creating music. Their intrinsic motivation fuels their artistic endeavors. Now, imagine that they receive a financial grant that enables them to continue pursuing their craft. Surprisingly, this external reward doesn’t dampen their intrinsic drive; instead, it serves as validation of their dedication and talent. The grant becomes a catalyst, reinforcing their love for music. While our examples focus on monetary rewards, a similar shift in the impact of extrinsic interventions occurs in legal contexts. If individuals perceive their behavior as intrinsically driven, they are less likely to cease prosocial actions when there is a financial incentive. For example, a person volunteering at a homeless shelter out of genuine concern for others may continue to do so even if offered a small stipend. However, if the stipend becomes the primary reason for their involvement, its removal could diminish their motivation to continue volunteering.

It is challenging to understand the likelihood of a certain extrinsic motivation succeeding in changing behavior positively without undermining people’s intrinsic motivation. This is especially true when accounting for the fact that people do not just have intrinsic motivation or not. Their level of intrinsic motivation will also affect their interpretation of extrinsic motivation. We can expect a difference when the intervention is targeting the individual rather than the public in general. When the policy is more general, it can be seen as not respecting the specific motivation of the individual to cooperate.

Because of the fact that there are so many parallel processes of crowding out, it is also very difficult to know in advance when intrinsically motivated individuals will feel that the extrinsic motivation enhances their willingness to voluntarily cooperate with legal requirements. Thus, for example, in the context of mask wearing, if a person upholds the law due to their belief in science, than the fact that there are laws or even sanctions that require the same things is unlikely to have an inadvertent effect. In fact, such laws could conversely enhance such people’s belief that their scientific understanding is in fact accurate and valid. In contrast, if people cooperate because they want to feel that they are moral people who choose to help others, clearly, then when such cooperative behavior becomes a legal requirement, their ability to feel that they are helping others is reduced, as they are now forced to do so by law.

However, if they object to laws demanding cooperation, they might engage in some psychological reactance to it.[[39]](#footnote-40) Eugene Volokh[[40]](#footnote-41) challenges the potential negative effect of good Samaritan laws, showing that there is great variation in how people behave without the law If there were only good or bad people, the law would be indifferent to good people and would push bad people. However, since there are at least five types of people, this might cause some people to perform worse. This is especially true because there are certain types of heroism that the law could never expect people to exhibit. Another interesting result[[41]](#footnote-42) regarding crowding out is related to how people perceive it. A classic example of this ambiguity is good Samaritan laws, which require people to help others in need. Some people may already feel a strong sense of obligation to help others, and the law will reinforce that feeling. Others may resent the law and feel like their autonomy is being threatened. Still others may not care one way or the other and will behave the same with or without the law.

## How regulatory interventions crowd out intrinsic motivation

Some recent research has begun examining how different nudges that either focus on social morals or simply a change in people’s default response have changed peoples’ intrinsic motivation. For example, research by Erik Grad and colleagues[[42]](#footnote-43) found no reduction in pro-social motivation following any presentation of nudges. If someone is being convinced to obey in a certain way, are they more likely to abandon their understanding because of some external intervention, such as a requirement or incentive?

It is possible to see a reduction in societal feeling of morality as a result of nudges. Essentially, if people are motivated to do the right thing only because of external rewards or penalties, their internal sense of what is right and wrong may weaken over time. This can be problematic if the external incentives are removed or if individuals start to believe that they can engage in unethical behavior without suffering any consequences.

Also, the personal satisfaction of being a responsible citizen is reduced by extrinsic interventions, such as incentives or penalties. This can then affect people’s intrinsic motivation to comply with laws and regulations, as people come to perceive the extrinsic intervention as the main reason for their compliance, rather than their own sense of duty and responsibility as a citizen.

On the other hand, if science informs us about the benefits of getting vaccinated, it is important to consider the impact external factors might have on vaccination efforts. In fact, when a law is based on scientific evidence, it can increase public confidence in a particular policy.

## Crowding out the ability to signal virtue to others

Payment for specific behavior can be seen as a signal to others, and this can have a different type of crowding out effect on the behavior of other individuals. The payment may signal that the behavior being incentivized is not something that people would do voluntarily, which could undermine the social norm on which the behavior is based.[[43]](#footnote-44) This is related to the concept of social norms and signaling analyzed by Richard Posner. Social norms are often based on the idea of doing something because it is the right thing to do or because it is expected by others in the community. According to Posner, when extrinsic incentives are introduced, they can send a signal that the behavior is not actually a social norm, but something that is done only for the reward. This can lead to a reduction in the intrinsic motivation to engage in the behavior, as well as a reduction in the effectiveness of the social norm itself.[[44]](#footnote-45)

In a study of how incentives affect the intrinsic motivation of whistleblower, Orly Lobel and I[[45]](#footnote-47)examined how getting paid for whistleblowing undermines the social status and image of a hero who cares only about fighting corruption. Another famous field experiment of Tobias Cagala testing the very different mechanism of pledges[[46]](#footnote-48) showed that when students were asked to make honesty pledges before exams, they were more likely to actually cheat. Presumably, the requirement to sign a pledge not to cheat led them to believe that others are probably cheating, thus making them more willing to do so as well.

## The dispute over ultra-Orthodox enlistment to the military.

Jointly with Netta Barak-Koren and Shelli Robson, we examined how intrinsic motivation might affect the likelihood that making military service mandatory could change the nature of ultra-Orthodox military service in Israel. This is a classical dilemma of the crowding out discussion. ,particularly Our aim was to try to determine whether efforts to persuade this community to enlist in the military, contrary to their beliefs and inclinations, would achieve better results than making service mandatory for them, especially since the latter could have serious negative social and political repercussions. It is difficult to understand the complexity of an intervention and whether it will change the type of intrinsic motivation. When dealing with a large segment of people who do not want to enlist, it is important to consider what can be done to encourage them. Within this research framework, several critical aspects were explored in shaping a new conscription policy. To better understand the social implications of conscription for Haredi soldiers, including aspects related to matchmaking and religious standing within the community, we examined how Haredi youth perceive IDF conscription and the factors that influence their decisions. We also analyzed their intrinsic motivations—personal, ideological, and normative— for or against enlistment as well as prevailing social norms within the Haredi community concerning military service While approximately one in four Haredi youth expressed a desire to serve in the IDF, only 10% demonstrated actual readiness to do so, and most Haredi youth perceived the overall Haredi willingness for conscription to be significantly lower than their personal inclination. Interestingly, Haredi youth exhibited varied motivations regarding serving in the IDF, including personal convictions, ideological alignment, and normative considerations. The intricate interplay of these factors, including multiple motivations on the one hand, and general resentment towards conscription on the other, makes decision-making about using coercion extremely complex.

## Punishment and crowding out

In addition to the expected higher quality of performance from the four non-calculative models, as discussed above, there is a wealth of research that shows the negative impact of both punishment[[47]](#footnote-49) and incentives. According to the “crowding out” theory, exposing people to external motivation (either positive or negative) undermines their internal motivation.[[48]](#footnote-50) For example, Bruno Frey found that residents were more likely to oppose a nuclear plant in their neighborhood if they were offered compensation.[[49]](#footnote-51) Ernst Fehr and Armin Falk (2002) showed that using incentives could reduce the performance of agents as well as their compliance with various rules.[[50]](#footnote-52) In a meta-analysis of 128 studies examining the effects of extrinsic rewards on intrinsic motivation Deci and colleagues found the robust negative effect of rewards on what they define as free choice intrinsic motivation, with some moderation effect related to the type of incentive and age of participants.[[51]](#footnote-53) Shu-Hua Tang and Vernon Hall[[52]](#footnote-54) took a different approach in their meta-analysis focusing on the concept of overjustification, while Frey has conducted few reviews of the literature focusing on the problems associated with incentives in agency relationship.[[53]](#footnote-55) Günther Schultze and Björn Frank[[54]](#footnote-56) demonstrated the crowding effect of deterrence and its destructive effect on the intrinsic motivation to behave honestly. Another important review article applying a more economic than psychological approach is that of Samuel Bowles and Sandra Polanía-Reyes[[55]](#footnote-57) in the context of pro-social behavior, showing the contexts in which economic incentives might be counterproductive and have adverse effects. They also suggest alternative explanations for why such effects might occur, which are unrelated to the classical crowding out effect, such as framing and lack of internalization. It is also notable that other studies have sought to understand the mechanism through which people are intrinsically motivated to cooperate in social rather than individual behavior. These studies have found no variation within groups associated with individual’s[[56]](#footnote-58) characteristics.[[57]](#footnote-59)

## Relational account of crowding out (fine is a price)

Another way that crowding out can happen is when people’s relationships change from personal to financial In the literature of behavioral economics, the famous and highly cited mechanism, the phrase “fine is a price,” became a parallel for psychological research on the crowding out effect. This effect was documented in the context of daycare centers that assessed fines on parents who were late in picking up their children at the end of the day.[[58]](#footnote-60) Imposing a fine on late parents was found to be counterproductive, resulting in an increased number of late pickups. Apparently, the fine caused parents to feel licensed to arrive late. In another study, the potentially disruptive effect of laws was examined. A related theory in the context of pro-social behaviors suggests that both rewards and punishments were shown to trigger an overjustification effect. This effect occurs when external rewards are present, causing people to question whether they actually have “true motivation.”[[59]](#footnote-61) In addition, this effect is more likely to occur when the behavior is done in private rather than in public.[[60]](#footnote-62)

## Expressive law versus. crowding out

An important conceptual and somewhat contradictory approach that is crucial for this project on voluntary compliance involves comparing the behavioral effect associated with incentives, which have been part of classical crowding out research, and the mandatory effects. These are in many ways more coercive but in many others might seem less likely to shift the focus from thinking about the individual and why they should do engage in a particular behavior.

Tom Tyler and I explored the contradiction between the ability of the law to express and enhance social practices and the ability of the law to crowd out motivation by mandating a voluntary act. In the expressive direction, people can still choose not to behave as the law requires. The expressive direction of the law primarily affects attitudes. However, when discussing the crowding out effect, the focus is usually on how it affects people’s choices, rather than on attempting to change the effect of the law on attitudes.

**We have compared two possible conflicting effects of law on behavior. On one hand we have argued that when** legal requirements “crowd out” the influence of social norms, their overall effect is not sufficient to ensure compliance with the law. For example, when legal requirements are the only influence on employee behavior, the important role of voluntary adherence to social norms in shaping compliance is undermined.[[61]](#footnote-63) Following a similar line of reasoning, Cohen (1991) argues that the positive reputation associated with being a Good Samaritan will disappear if assisting others in need becomes a legal requirement.[[62]](#footnote-64) The implications of this argument are that if employers are compelled by law to treat their employees in a certain way, the social reputation that employers gain from treating their employees fairly is lost. Knowing that their efforts will go unappreciated, employers will have no reason to act on behalf of employees beyond legal requirements, as they will receive no credit for such behavior.[[63]](#footnote-65)

On the other hand, the law can also have an expressive effect on behavior by shaping people’s attitudes and beliefs about what is right and wrong. This can lead to voluntary compliance with legal requirements even when they are not strictly enforced. However, this effect is not guaranteed. Therefore, to minimize any negative effects on voluntary adherence to social norms, it is important to consider how legal requirements might be perceived by individuals and organizations. Ultimately, the goal should be to strike a balance between using the law to promote ethical behavior and avoiding unintended consequences that could undermine the effectiveness of legal regulation.

The case study we have chosen addresses the question of whether and how legal authorities should intervene in work organizations to regulate the behavior of employees most effectively. This question is explored empirically by examining whether there is an association between the level of fairness that employees experience in procedures regarding pay and benefits, and their adherence to workplace rules. The study asks whether this association differs depending on whether those procedures are enacted voluntarily by companies or mandated by law. The results suggest that evaluations of the procedural justice of performance appraisal hearings have a stronger influence on judgments of overall workplace fairness, perceptions of management legitimacy, and employee rule-adherence behavior when employees believe fairer workplace procedures are required by law.

Our findings have demonstrated a third effect consistent with the expressive function direction which we associated with entitlement. Interestingly, we found that once a social practice becomes a legal norm, it causes people to...

## Crowding out, fairness and lack of trust

In the studies examined above, we have also focused on the crowding-out mechanism of the signaling of mistrust that is associated with imposing law. For example, Falk and Kosfeld (2004) have demonstrated that when a principal signals distrust to an agent, the agent’s performance is reduced. Frey and Feld have made a similar argument in the context of tax compliance from a reverse direction.[[64]](#footnote-66) Their research has demonstrated the importance of giving people fair treatment and a voice to increase the likelihood that they will be more likely to engage in voluntary compliance. Along those lines, Margaret Blair and Lynn Stout[[65]](#footnote-67) have demonstrated the that regulation and monitoring can have an inadvertent effect on executive behavior, a finding relevant to current corporate law.[[66]](#footnote-68) They suggest that the mistrust signaled through harsh regulation serves as a self-fulfilling prophecy. A policy that threatens people overlooks the possibility that a threatened punishment is perceived as a signal that noncompliance is widespread.[[67]](#footnote-69)

## Reactance theory as an alternative mechanism to crowding out

The reactance theory provides an alternative approach to the potential effects of regulation, especially restrictive ones, on people’s behavior. According to reactance theory, people resist restrictions. This suggests a negative effect of law on behavior. Interestingly, when the concept of perceived legitimacy is taken into account, it is shown that both legitimate and non-legitimate restrictions create reactance. However, the difference is in the type of mechanism employed against it. The reactance to the illegitimate intervention was immediate, while longer cognitive deliberation was needed regarding the legitimate one.[[68]](#footnote-70) An example of this can be found in a joint work with Netta Barak-Coren and Noam Gidron,[[69]](#footnote-71) where we developed the concept of inexpressive law. This is expressed in situations where the national law causes left-wing individuals to experience a feeling of reaction, which leans to greater support for anti-discrimination law. It is important to note that in that context, the focus was reversed to reflect the classical crowding out. The law was in a direction consistent with the intrinsic beliefs of the right in Israel, but in a direction contrary to the intrinsic beliefs of the left in Israel. The polarizing effect itself demonstrates that there is complexity when it comes to predicting behavior.

We conducted a study to investigate the impact of majority nationalism laws on the patterns of minority discrimination. We used the Israeli draft Nation Law (NL) as a case study. This law was introduced in response to the ethnic and religious diversification experienced by Western societies, specifically in Israel, in recent decades. The aim of this law is to protect the cultural heritage of the majority by defending the local dominant culture. Based on two experimental surveys conducted with a representative sample of Israel’s majority population (N = 602), our findings provide limited support for the hypothesis that laws promoting majority nationalism heighten bias against minorities. We also found modest support for the hypothesis that such laws generate unintended spillover effects across different minority groups and from the public to the private sphere.

However, our most significant discovery was the backlash reaction provoked by majority nationalism laws among those who oppose them. We introduced the term the “provocative effect of law” to describe this phenomenon and discuss the implications of this phenomenon in relation to expressive law theory. Our results suggest that majority nationalism laws may have a different impact on different ideological groups and spheres of discrimination.

When legal intervention is used to change people’s intrinsic motivation, it can sometimes lead to a backlash if the law does not align with the target group’s intrinsic motivation. This provides another theoretical route to understanding the complexity of predicting whether the law will enhance or destroy intrinsic motivation. This is why it is so important to consider the diverse reactions to legal interventions and their potential unintended consequences when we are trying to address these issues.

Crowding out by giving alternative reasons?

Zamir and colleagues[[70]](#footnote-72) explored the effectiveness of reason giving in promoting compliance with legal norms. While sanctions alone often fall short in ensuring adherence, recent attention has shifted toward nudges—subtle measures that leverage people’s automatic System 1 thinking—to influence behavior without resorting to punitive measures. However, nudges have proven both ineffective and contentious. Their article delves into how providing information about the underlying reasons behind legal norms can enhance compliance, primarily through deliberative System 2 thinking. Although Plato used explanatory preambles to accompany legal norms, this technique is rarely used today and has largely been overlooked by scholars. Zamir and colleagues argue that giving reasons can significantly increase compliance while reducing the need for costly enforcement mechanisms. The theoretical framework consists of three main components:

1. *Mechanisms of Influence*: Describing how reason giving may affect people’s behavior.
2. *Reason Giving for Compliance*: Differentiating between reason giving as a tool to enhance compliance and its use for other purposes.
3. *Policy Considerations*: Discussing pragmatic factors relevant to employing reason giving.

After exploring the theory, their empirical investigation employed vignette studies to demonstrate the feasibility and effectiveness of the reason-giving technique. Their findings reveal that people are more likely to follow legal norms when sound reasons are to comply, compared to situations where reasons are not provided. It is important to note that persuasive reasons can encourage compliance, but questionable reasons may have the opposite effect.

## Religion and reason giving

We know from religion that the notion of reason giving was seen as problematic. This is because if reasons are not convincing enough, people might not believe the law. Therefore, it is possible to imagine a scenario where people are already intrinsically motivated to obey a certain law for a particular reason, and then providing a different reason for the same action could diminish their original intrinsic motivation. To understand this effect, further experimentation is required. However, it is clear that the same rationale associated with an external motivation to the original motivation of the person being introduced could have an effect, at least according to some of the mechanisms of the crowding-out literature.

## Sanctions that enhance morality

To render the picture even more complex, some research suggests that not only do sanctions not crowd out morality, but they could potentially increase our perception of the immorality of the act.[[71]](#footnote-73) In a series of three experiments, Laetitia Mulder and colleagues examined the influence of sanction severity. They found that severe sanctions lead to stronger moral judgments regarding rule-breaking behavior and stronger social disapproval of rule-breakers than do mild sanctions. Interestingly, there was some moderation in the level of trust in institutions.

While interesting, these findings are limited in a few ways. First, when relying on trust in authorities, the strong sanction may be perceived as a credible signal Secondly, as we discussed earlier, there is an open question as to the extent to which we can view morality as an intrinsic motivation to obey a particular rule. It might be more as part of intrinsic motivation to obey legitimate authority. It might be the case that if people believed in the actual law, they would have assessed their behavior differently.

## Fairness of the law as affecting the likelihood of crowding out

In their famous study,[[72]](#footnote-74) John Braithwaite and colleagues concluded that nursing home managers were more likely to comply with requests when they felt that they were treated fairly. On the surface, this seminal study appears to answer the main questions of this book: How can voluntary compliance be achieved and what is the best way to maintain it? The main problem with the study is that the managers who felt they were trustworthy may have only been trustworthy to the regulators, and not to the rest of the organization. This doesn’t solve the regulators’ dilemma when they need to decide the best approach when there is a lack of information about the integrity and trustworthiness of the particular entity they are interested in regulating.

In a study from 2009, Neil Gunningham and Darren Sinclair[[73]](#footnote-75) examined what happens when inspectors, focused on the more intrinsically oriented “advise-and-persuade” approach, switch to the more extrinsically oriented deterrence-based approach because of some disaster that happens and a public demand for tougher approach. They found that this change in approach has led to problematic consequences and the decline of trust has led to a decline in the regulatory effectiveness. Carol Heimer and J. Lynn Gazley[[74]](#footnote-76) have emphasized the importance of meaningful interaction between inspectors and regulates. This interaction can enhance information gathering and improve compliance.

## Pareto self-improvement and the efficacy of changing intrinsic motivation

Robert Cooter has been working on the notion of “Pareto self-improvement;” that is, that people must be authentic in order to be able to behave in an authentic and systematic way.[[75]](#footnote-77) Cooter suggests that this can be accomplished through a second, more instrumental mechanism. The law might utilize high-order preferences to change undesirable low-order preferences.[[76]](#footnote-78) According to Cooter, people can improve their social standing by being perceived as virtuous. Thus, in order to appear more moral to others and satisfy high-order preferences for elevated social status, people might change their low-order ethical preferences.[[77]](#footnote-79) It is this process that Cooter terms “Pareto self-improvement.”[[78]](#footnote-80) Of course, this mechanism will truly improve ethicality only if people cannot falsely present themselves as virtuous, or at least if doing so is costly.[[79]](#footnote-81) Therefore, Cooter argues that if the best way to appear moral is to actually be moral, then people will want to become moral and change their ethical preferences.[[80]](#footnote-82) Therefore, close social groups are important for observing people’s true morality and improving ethical preferences.[[81]](#footnote-83) The state can improve compliance with the law by enacting laws that have moral implications. This is done by piggybacking on social mechanisms. If people want to appear moral to others, they will change their preferences to align with the law, which is often s equated (at least somewhat) with morality.[[82]](#footnote-84)

We must ask ourselves whether sanctions threaten this process Are sanctions making it less likely for cognitive dissonance to occur, causing people to avoid thinking about why they want to obey the law? How do we explain the fact that we have probably internalized the need to put on a seat belt simply through habit formation? What about repetition? Is internalizing through repetition different? The law that prevented sexual harassment used sanctions from the beginning, which led to a change in how sexual harassment is viewed. This is all related to the previous discussion on the contradiction between the expressive function of the law and the crowding out effect.

Cooter’s Pareto self-improvement mechanism for preference change is an example of the rational choice perspective.[[83]](#footnote-85) This perspective suggests that people logically change their preferences in response to new information or new social opportunities.[[84]](#footnote-86) More importantly, according to Cooter’s paradigm, preferences change when an individual acquires new information. For example, in a stronger “taste for fairness,” the assumption is that this taste is adopted with full awareness and immediately translates to behavior.[[85]](#footnote-87)

## Is changing intrinsic motivation needed for a sustainable behavioral change?

When discussing the impact of incentives or regulations on intrinsic motivation, it is important to consider whether intrinsic motivation needs to be altered for behavior to change over time. Cooter argues that for behavioral change to be sustainable, intrinsic motivation must be altered.

However, this argument overlooks certain facts. For example, the literature on habit formation does not include the classical approach to intrinsic motivation. According to Cooter, people need to believe that their behavior is consistent with their values. However, when looking for studies on behavioral change, this does not seem to be the case. Instead, habit formation is viewed as a more sustainable approach.

For example, scholars like Milkman have researched behavioral change through habit formation. This approach is seen as the best way to create stable behavioral change that can withstand various external counter effects. Daphna Lewinsohn-Zamir’s work on internalization refers to another approach that is similar to the classical effect of cognitive dissonance. According to this approach, behavioral change must precede internal change and internal change is more likely to occur without strong external pressure. This effect has led Lewinsohn-Zamir to argue that a command-and-control sanctions-based approach is actually less likely to lead to internal change, making it less intrusive and problematic. Interestingly, the assumption is that an internal change is problematic from a rule of law perspective. This issue will be discussed in Chapter 11, which focuses on normative implications.

## Other forms of attitude change mechanisms

In addition to the literature on habit formation, models of attitude change s[[86]](#footnote-88) also suggest a mixed picture. According to many studies,[[87]](#footnote-89) it is difficult to identify one process through which such change happens.[[88]](#footnote-90) This undermines some of the original models of persuasion and attitude change that sought to differentiate different attributes of messages (such as quality of argument versus source of message).[[89]](#footnote-91)

## What regulatory factors are more likely to change your preferences?

Thus, if sanction are not necessarily the only means whereby the law crowds out motivation, we need to understand what other factors might explain this potential effect. In the following section, which begins by identifying the regulatory toolbox choices, we will examine which regulatory aspects will have a stronger effect on behavior. A related question is what regulatory instrument will have a positive effect on people’s intrinsic motivation (which is sometimes referred to as preference change in economic terminology), and what regulatory instrument will have a negative effect on people’s intrinsic motivation (which is usually referred to in law and behavioral economics as crowding out motivation).

## Is there a regulatory instrument that is best suited to change preferences?

As we showed in the previous chapter, each regulatory instrument has more than one dimension. Therefore, it is difficult to argue that one legal tool is preferable to another when it comes to preference change. Traditionally, it has been assumed that providing an explanation to people regarding compliance is the best way to change preferences. However, recent research has challenged the connection between what people believe and what they actually do. This raises questions about whether preference change is the most effective way to achieve the desired outcome.

In a sense, our approach advocates for preference change as a desired goal. This is not necessarily because it will lead to greater cooperation, but because it will improve people’s sense of belonging and identification with the state.

What about social norms? Do we know if social norms are likely to change preferences in a positive way?

The nudge plus approach[[90]](#footnote-92) adds a deliberative component that is aimed at promoting deeper understanding and motivation for behavior change. For example, while this approach adds deliberation, it is not suggesting doing so because of empirical evidence. Rather, it suggests that adding deliberation is likely to lead to an increase in an important behavioral component of democracy—the feeling that you understand what is expected of you. It is not necessarily because this might lead to a better or higher quality of compliance.

For instance, a government might initiate a campaign to encourage citizens to consume more fruits and vegetables by disseminating information about the health benefits of such a diet. Additionally, they could make it easier to choose healthier options by placing fruits and vegetables at eye level in grocery stores and adding labels that highlight their nutritional value. The nudge plus approach combines nudges with education and information to encourage positive changes in behavior.

## Behavioral ethics challenges to the practical wisdom of using law to change preferences

In a joint work with Yotam Kaplan, we have criticized the axiom common to all studies on internalization that people will behave more ethically if their preferences become more ethical. This axiom underlies much of the attempt to change people’s preferences. It is impossible to argue against the greater good that comes to the world with more people who have ethical preferences. We have argued that ethical preferences do not necessarily guarantee ethical behavior. Instead, we believe that the design of the situation in which people operate is of greater importance. In short, the argument is that even people who have a strong preference for ethical behavior can end up behaving unethically.

Studies in cognitive and social psychology, as well as research in behavioral ethics and behavioral economics, suggest that the internal-consistency assumption is an oversimplification of human decision-making in general, and ethical decision-making in particular. This point is closely related to the growing literature on deliberative, semi-deliberative, and non-deliberative choice.[[91]](#footnote-93) It is possible for a person to have an explicit preference for one state of affairs, yet systematically make choices that seem to contradict this preference.[[92]](#footnote-94) In the context of ethical decision-making, it is possible (and even common) for a person to hold an explicit preference for ethical behavior, but at the same time to have an implicit habit, or a non-deliberative tendency to lie and cheat.[[93]](#footnote-95) Similarly, people can have a preference for helping others, yet behave selfishly when their choices originate with semi-deliberative cognitive processes.[[94]](#footnote-96) This could also happen due to self-deception mechanisms, where individuals might misinterpret their own actions, viewing them as helping when they are in fact egoistic.[[95]](#footnote-97) Preferences are not monolithic, but fragmented. People behave in ways that indicate the existence of fractions or inconsistencies in their preferences, even within a single time period. This insight is also related to the literature on situational wrongdoing, which highlights the effects of minor situational changes to people’s levels of moral commitment.[[96]](#footnote-98)

In other words, the current approach of attempting to change people’s preferences to improve ethical behavior is oversimplified and not always effective. People’s preferences can be fragmented and inconsistent, and holding a conscious preference for ethical behavior does not necessarily lead to behaving ethically. Efforts to improve ethical behavior should focus on maintaining moral awareness and changing social norms, institutions, and organizations. It is not enough to solely attempt to change individuals’ preferences. The law can play a role in improving ethical awareness indirectly by changing social norms and institutions.[[97]](#footnote-99) Therefore, improving a person’s expressed beliefs or preferences, or encouraging a “taste for fairness”[[98]](#footnote-100) will not necessarily result in a positive change in behavior. This means that the effort to improve ethical behavior should become more nuanced. Improving behavior can require constant maintenance of moral awareness, rather than a discrete intervention designed to alter expressed attitudes. We are developing this point to present a critique of the preference-change endeavor. We suggest that the law may be ill-equipped to produce an overall improvement in people’s internal drive to behave ethically and legally. Instead, we suggest an alternative approach to the role of law. Rather than directly improving ethical awareness, the law should indirectly change conventional social norms, institutions, and organizations.

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## What Can We Learn from Religion

Supposedly, religion is the best example of how to cause people to cooperate voluntarily with requirements.

Judaism for example, which the religion I practice, has suggested thousands of years ago what habit formation researchers have shown that repetition changes behavior.

## Why religion might not be about voluntary compliance

Nonetheless, this is probably not true on many accounts.

First, in almost all religions, communities are needed to maintain order

Second research about the punitive god demonstrates how limited is the

## Is religion about religion about internalization or punishment?

## What kind of people do we want, honest, ethical, or compliant?

# Honesty: Beyond Compliance

**Background**

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