The Normative Discussion: Voluntary Compliance versus Command and Control in Regulatory Policy

Contents

[Introduction: 4](#_Toc173074054)

[Voluntary compliance and heterogeneity 10](#_Toc173074080)

[Is the rise of polarization threat to voluntary compliance? 10](#_Toc173074081)

[Jurisprudential relevancy of voluntary compliance and internalization 12](#_Toc173074082)

[Can we trust peoples’ intrinsic motivation, given what we know about behavioral ethics?14](#_Toc173074083)

[A taxonomy of whether voluntary compliance might work 15](#_Toc173074084)

[Factors influencing regulatory strategy choice: A comprehensive framework 16](#_Toc173074085)

[Trust and legitimacy versus morality 18](#_Toc173074086)

[The challenge of polarization 19](#_Toc173074092)

[Can this work in the context of polarized counties? 19](#_Toc173074093)

[Is it possible to trust and monitor at the same time 20](#_Toc173074094)

[Thinking on compliance motivation in pairs 21](#_Toc173074095)

[Religion and intrinsic motivation 22](#_Toc173074096)

[What states can learn from religion with regards to internalization? 22](#_Toc173074097)

[Community vs. state approaches 24](#_Toc173074105)

[Differentiated voluntary compliance 25](#_Toc173074106)

## Introduction:

## Summary

Throughout the first ten chapters of the book, we have explored the possibility of voluntary compliance from various perspectives. In addition to clarifying the meaning of voluntary compliance, this book has examined its potential benefits for regulatory policy, emphasizing the need to understand when and how governments can trust citizens to comply voluntarily with laws and regulations.

The book opened with an overview of voluntary compliance, exploring its definitions, potential advantages, and challenges. We explored how voluntary compliance intersects with concepts such as trust, legitimacy, and social norms, thus setting the stage for a deeper understanding of the factors influencing compliance behavior.

Building on this, the book moves on to examine the behavioral aspects of voluntary compliance, focusing on both intrinsic and extrinsic motivations for compliance. We considered how moral, social, and economic factors affect compliance, and how different regulatory approaches can influence individuals’ compliance motivation.

This discussion led to a critical analysis of how external interventions, particularly those rooted in regulatory frameworks, can potentially “crowd out” individuals, thereby diminishing the very voluntary compliance these interventions aim to foster. Continuing, we shifted to an exploration of various trust-based regulatory approaches as alternatives to traditional command-and-control methods in encouraging voluntary compliance. We investigated strategies such as responsive regulation, nudges, and trust-based regulation, assessing their potential to cultivate voluntary compliance while acknowledging their limitations.

The exploration of the potential risks and limitations of relying on voluntary compliance raised the significant challenge of the potential for heterogeneity in compliance motivations across different populations and the possibility of exploitation by non-compliant actors, including state actors seeking to manipulate attitudes.

Culture, too, plays a pivotal role in shaping compliance behavior. Thus, we examined how cultural factors, such as trust, social cohesion, and attitudes towards authority vary across societies, influencing the effectiveness of voluntary compliance initiatives and people’s behavior.

Similarly, the role of technology in facilitating or hindering voluntary compliance was scrutinized, with particular attention to how technological advancements might affect monitoring, enforcement, and trust in regulatory systems.

The practical application of these concepts was demonstrated through an analysis of public health policies, with a particular focus on lessons learned from the COVID-19 pandemic. More specifically, we compared the trust-based approaches with command-and-control strategies in different countries, specifically examining compliance behavior related to mask-wearing and vaccinations. This practical focus extended to tax policy, where we explored tax morale, fairness perceptions, and trust in government. We weighed the effectiveness of these factors in the context of the effectiveness of audits and deterrence and considered the impact on tax compliance. deterrence in terms

Still focusing on the practical aspects of compliance measures, we turned to environmental regulation, analyzing how intrinsic motivation, social norms, and regulatory approaches influence pro-environmental behaviors. Each of these doctrines offers a different set of parameters that shape the ability to sanction, and the likelihood and the quality of voluntary compliance.

The purpose of this focus on voluntary compliance is to help scholars and policymakers determine how a specific regulatory approach might work when taking into account all of the relevant factors. It is critical to develop a new version of responsive regulation based on evidence and sensitivity to behavioral public policy findings, national contexts, and targeted behaviors. Synthesizing the diverse strands of analysis mentioned above enhances our understanding of the complex interplay of factors that determine whether voluntary compliance can be achieved and sustained across various domains. This analysis also helped us develop a framework that could identify which regulatory tools are most effective for achieving compliance and promoting cooperation.

The book has also analyzed the relationship between the national context, institutions, and the potential effectiveness of trust-based regulation in a particular country, taking into consideration the ethical values of the country. Despite a significant amount of research on cross-national differences, most studies only focused on a single dimension, such as honesty or trust. As a result, they failed to address the specific behaviors that require attention in order to implement change, as well as the various regulatory approaches used.

The intention is for this discussion to contribute to the discourse about the desired relationship between states and their citizens. A democratic state should aim to convince its citizens to obey willingly. Therefore, any legal instrument that maximizes voluntary behavior is preferable to coercive measures. From a normative perspective, it may be necessary to critically evaluate the costs of incentivizing the public to voluntarily cooperate. Our empirical findings help to clarify a number of important issues. The emphasis on the diversity and distributional impact of the law indicates that certain populations, such as those that are less educated and privileged, may be more susceptible to having their preferences altered after being exposed to a campaign of persuasion.

Finally, another related normative effect is the long-term impact of these interventions on public trust in government, which is connected to the effect mentioned earlier. In the normative part of our discussion, we will consider the ideal level of trust between the government and the public. Regulators who have excessive trust in the industry being regulated may compromise the safety of the public.

This final chapter summarizes the book’s findings and addresses the central question of whether it is advantageous to shift from command-and-control approaches to more trust-based and intrinsically motivated regulatory mechanisms. The chapter explores this question at three levels.

At the *societal* level, it examines the impact that a shift towards voluntary compliance could have on overall societal trust. It explores the potential changes that may occur in social solidarity and cohesion and considers the broader implications for society if punitive enforcement measures are reduced. At the *institutional* level, this chapter analyzes the impact of trust-based regulatory strategies on the legitimacy of government institutions. It explores potential shifts in public perception towards regulatory bodies and predicts how the dynamics between regulators and those being regulated may develop over time. At the *individual* level, this chapter explores how emphasizing intrinsic motivation might influence individual cooperation with laws and regulations. In addition to examining the potential for fostering “beyond-compliance” behaviors, it discusses the challenges and opportunities in cultivating intrinsic motivation for compliance.

Drawing on the insights from previous chapters, this chapter assesses the potential advantages and disadvantages of voluntary compliance. It provides a nuanced perspective on the circumstances in which voluntary compliance approaches are most effective and where traditional command-and-control methods may still be necessary. In conclusion, it reflects on the future of regulatory policy and the balance between trust-based and coercive approaches to governance.

The book examines the diverse implications of moving beyond command and control, providing a detailed analysis of the opportunities and challenges that come with voluntary compliance in modern regulatory frameworks. This comparative study consists of multiple chapters that analyze different compliance motivations, their susceptibility to crowding-out effects, and the interactions between various regulatory tools, motivations, and crowding-out processes.

This chapter explores the various factors that contribute to this regulatory dilemma at multiple levels and discusses the ethical considerations that must guide decision-making. It also examines the techniques used to compare and assess the expenses incurred when relying on either voluntary compliance or command-and-control strategies, and the associated risks of errors. The main objective is to create a detailed plan for evaluating the effectiveness of voluntary compliance in various cultural and contextual settings.

Although many studies on behavioral public policy suggest that morality can be a more effective means of achieving compliance than other approaches, it does not completely answer the question of whether the public can be relied upon to voluntarily comply. For example, while a moral nudge may elicit a positive response from 20% of the population, there is still uncertainty about how long their contributions will last and how the remaining 80% will react. Will they experience crowding-out effects or simply disregard the nudge?

To analyze voluntary compliance, I suggest conceptualizing voluntariness as a multidimensional construct that exists on a continuum, rather than a binary state. This nuanced perspective enables a more sophisticated understanding of compliance behavior. I contend that the level of voluntariness is affected by several key factors:

## The factors that affect an individual’s compliance with behavior expectations include the degree of coercion perceived, which can range from direct mandates to subtle nudges, and the strength of intrinsic motivation, which varies based on personal values and social norms. Additionally, the clarity and accessibility of behavioral instructions, the individual’s cognitive understanding of when and how to comply, and the salience of the desired behavior in the decision-making context also play a role.

## Such a multidimensional approach facilitates a more detailed analysis of compliance behaviors, which enables policymakers and researchers to develop regulatory strategies that are better suited to specific situations. These strategies can balance the benefits of voluntary compliance with the need for more directive approaches when necessary.

Moreover, I believe that the field is facing definitional inconsistencies across different disciplines, which are hindering interdisciplinary research efforts. The interpretation of voluntariness frequently differs between psychological, economic, and legal frameworks, which creates obstacles in consolidating research findings into one unified body of knowledge.

I also want to point out the significant gaps in our empirical knowledge regarding voluntary compliance. Most of the existing studies have a limited scope and lack external validity, often relying on convenience samples or only looking at specific contextual settings. The lack of sufficient, universally applicable evidence makes it challenging to formulate strong conclusions regarding the effectiveness and underlying mechanisms of voluntary compliance in various regulatory domains and populations.

I argue that various factors interact in intricate ways to determine the level of voluntariness in compliance. For example, having a strong internal motivation can counteract mild coercion, and clear instructions may improve voluntary compliance even if there is a lack of strong internal drives.

My analysis identifies several crucial areas of knowledge that require further investigation in order to more fully implement voluntary compliance.

* One of the main concerns is scalability: Can interventions that promote voluntary compliance, often tested in controlled settings, be effectively implemented on a larger scale? 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.
* Policy implications: What are the situations in which voluntary compliance proves to be more effective, cost-efficient, and expedient than traditional regulatory approaches? How can we assess and mitigate the risks associated with relying on voluntary compliance?

The unanswered questions emphasize the need for comprehensive and multidisciplinary research to support evidence-based policymaking in the field of regulatory compliance.

To enhance our understanding of voluntary compliance, the book advocates conducting more rigorous, cross-contextual research that uses standardized measures of voluntariness and takes into account the multifaceted nature of compliance behaviors. Such research would not only improve our theoretical understanding but it would also help us create more effective policies to encourage voluntary compliance.

This approach requires collaboration among multiple disciplines, such as psychology, economics, law, and public policy, to establish a more holistic framework for comprehending and promoting voluntary compliance. By addressing these gaps in knowledge and overcoming methodological challenges, we can effectively navigate the complex regulatory landscape. Doing so will enable us to take advantage of the potential benefits of voluntary compliance while also mitigating any associated risks.

I argue that these factors have complex interactions that determine the level of voluntary compliance overall. For example, having a strong internal motivation can counteract slight pressure, and providing clear instructions can increase voluntary cooperation even when there is not a strong personal drive to comply.

My analysis of voluntary compliance policies suggests that policymakers encounter significant knowledge gaps when deciding to implement such strategies. The effectiveness, efficiency, and political implications of voluntary compliance are largely uncertain. Policymakers do not have sufficient empirical evidence to determine the specific conditions under which voluntary compliance is more effective than traditional regulatory approaches. The effectiveness of voluntary compliance initiatives in terms of cost, implementation, and long-term maintenance has not been well established across various regulatory domains.

Moreover, the effectiveness of voluntary compliance compared to mandatory measures in achieving desired outcomes is not well comprehended. A significant issue is the dependability and level of risk associated with voluntary compliance strategies, as policymakers lack sufficient data to evaluate whether these approaches consistently produce the intended results without any unforeseen adverse effects. The levels of public support and the impact of voluntary compliance policies on regime stability lack adequate documentation, which is crucial from a political standpoint. Uncertainty about the effects of these strategies may cause policymakers to hesitate in adopting them since they cannot accurately predict how the policies will impact their political standing. The existence of these knowledge gaps emphasizes the necessity for conducting comprehensive, context-specific research to support evidence-based policymaking in the field of regulatory compliance. This will enable policymakers to make better-informed decisions regarding when and how to implement voluntary compliance strategies.

While internalizing motivations for legal compliance could potentially enhance the legitimacy and efficiency of regulatory systems, it also presents complex challenges. The process of encouraging this internalization must be balanced thoughtfully with practical considerations and safeguarding individual rights. This is particularly important in diverse societies, where values and norms can vary significantly Policymakers and regulators are tasked with a difficult designing compliance strategies that promote voluntary adherence to rules while still upholding personal autonomy and accounting for the diversity of society. Moreover, it is still unclear what the lasting impacts are of trying to adopt internalized compliance motivations, which calls for continuous research and evaluation. As societies continue to evolve, it becomes increasingly important to develop nuanced approaches that promote compliance without relying on excessive coercion or eroding the diverse value systems of modern democracies.

## Voluntary compliance and heterogeneity

For my analysis of voluntary compliance, I believe it is important to focus on the critical challenge of dealing with individual responses that differ from one another and the prevalence of conditional cooperators. The success of policies that depend on voluntary compliance largely depends on the number of people willing to cooperate without being forced to do so. However, this number is not fixed and can be affected by the behavior of others, resulting in a complicated and dynamic system. Conditional cooperators add an additional layer of complexity since they adjust their level of compliance based on their expectations or observations of others’ behavior. This heterogeneity and conditionality make it challenging for policymakers to predict the outcomes of voluntary compliance initiatives, leading to significant uncertainty.

Designing effective policies becomes exceedingly difficult without accurate knowledge of how cooperators, non-cooperators, and conditional cooperators are distributed in a given population. There is a significant risk posed by the potential for cascading effects. Non-compliance among a critical mass of conditional cooperators can lead to widespread defection. Furthermore, the composition of these groups may differ across various regulatory domains and cultural contexts, which makes it difficult to generalize. The uncertainty underscores the importance of using sophisticated models and conducting empirical research to gain a better understanding of how voluntary compliance operates in diverse populations. This will enable policymakers to develop more robust and flexible regulatory strategies. Without the ability to distinguish between individuals and encourage voluntary compliance, the approach proposed in “trusting the public” may be significantly limited in its effectiveness and potential application in court.

## Is the rise of polarization a threat to voluntary compliance?

Together with Tom Tyler and Libby Maman, we investigated how polarization and extreme ideology affect trust, cooperation, and the effectiveness of self-regulatory tools in governance. We analyzed the relationship between ideological extremity, trust, and cooperative behavior using data from the World Value Survey and the European Social Survey. These surveys involved 54,683 respondents from 27 European countries.

Contrary to initial expectations, holding extreme ideological views did not necessarily reduce trust. Right-wing views were associated with increased trust in institutions (r = 0.11, p < .001), while left-wing views appeared to have no significant impact on trust (r = 0.01, n.s.).

The study shows that ideological extremism can significantly affect how authority is perceived. Specifically, the study found that left-wing extremism increased the significance of trust in legal authorities when deciding to comply (correlation increased from 0.24 to 0.34 for high-left extremity) and amplified the correlation increased from 0.16 to 0.24 for high-left extremity). On the other hand, right-wing extremism has resulted in a reduction in the significance of trust in legal authorities (the correlation decreased from 0.33 to 0).

At the aggregate level, countries with higher levels of left-wing extremism showed a stronger correlation between trust in legal authorities and cooperation (r = 0.65 for countries with high-left-wing extremism compared to r = 0). On the other hand, countries with a higher degree of right-wing extremism showed a weaker correlation (r = 0.40 for high right-wing extremism vs. r = 0.92 for low right extremism).

The study also revealed that individuals with extreme political views are more sensitive to whether their party is in power. This effect is more pronounced in right-wing extremists (β = 0.08, p < .001) compared to left-wing extremists (β = 0.02, p < .001) when considering trust in legal authorities

Regarding cooperative behavior, an association was found between left-wing extremity and increased cooperation (r = 0.15, p < .001 for self-reported extremity), while right-wing extremity showed a similar trend (r = 0.12, p < .001 for self-reported extremity).

Finally, we examined whether the political party in power had an impact on this relationship and discovered that individuals with extreme views placed a greater emphasis on this factor when making decisions regarding trust and compliance. Consistent with our expectations, extremity reduced the willingness to trust and show deference to “others.”

According to these findings, polarization and extremism may not directly erode trust, but they can make self-regulation and voluntary compliance more vulnerable to changes in trust levels. This heightened sensitivity could potentially jeopardize the effectiveness of self-regulatory measures in highly polarized societies, especially if trust in the government were to decline.

Our study found that extremism does not adversely affect trust, but it does alter the dynamics of authority. When extreme measures are taken, the relationship between individual trust and cooperation intensifies, making cooperation more dependent on the perceptions of the government. Our study suggests that polarization plays a vital role in determining the effectiveness of self-regulation when viewed from the perspective of ideological extremity.

Cooperation becomes more dependent on trust than ever before, especially when compared to command-and-control regulation. Our analysis also reveals significant overall differences between left- and right-wing ideologies. In extreme left-wing societies, trust plays a crucial role, whereas extreme right-wing societies tend to place less emphasis on trust.

Thus, our study suggests that policymakers in polarized societies who are considering self-regulatory tools should be aware of the varying effects of left- and right-wing extremism on the importance of trust in decisions related to compliance and cooperation.

In light of the work of Luman and others, it is notable that in small villages, people had confidence in one another because they knew each other well and could trust each other. However, in urban areas, where people don’t know each other, reputation plays a smaller role. We need to establish a trustworthy system where we can decide to what extent we can rely on others in specific situations.

## Jurisprudential relevancy of voluntary compliance and internalization

Legal philosophers have extensively debated the implications of voluntarily complying with the law and internal motivations for adhering to it. This discussion highlights a fundamental tension between advocating for virtue through law and safeguarding individual rights and freedoms.[[1]](#footnote-1)

First and foremost, it is important to note that even as far back as Aristotle, there has been an emphasis on the significance of individuals who embrace virtues through the processes of internalization discussed in this book. According to studies conducted by scholars who have studied Aristotle, such as Nancy Sherman[[2]](#footnote-2) and Julia Annas,[[3]](#footnote-3) it is believed that virtues are acquired mainly through habit and practice, rather than through theoretical knowledge alone. Aristotle himself stated that “we become just by performing just actions, temperate by performing temperate actions, brave by performing brave actions.”

He also emphasized the importance of repetition in developing virtuous habits, insisting that virtues are formed by repeatedly performing virtuous actions until they become second nature. Finally, Aristotle that proper education and guidance, especially in youth, were crucial for developing virtue.

Legal moralists argue that the law should actively shape citizens’ character and promote moral values, a perspective rooted in the philosophies of thinkers like Plato and Aquinas.[[4]](#footnote-4) However, implementing this approach faces significant challenges in contemporary, diverse societies, where critics often assert that imposing moral values through the legal system can result in the suppression of minority views and infringe upon individual liberties.[[5]](#footnote-5) The distinction between morality in the public and private spheres further complicates this issue. H.L.A. Hart argued that the law should focus only on actions that directly harm others and not on private moral choices.[[6]](#footnote-6) In contrast, Patrick Devlin contended that the law should uphold public morality in order to preserve social cohesion.[[7]](#footnote-7)

Contemporary legal thinkers have sought to navigate these tensions by proposing more nuanced approaches. John Rawls supported the political notion of justice that could be embraced by people with diverse moral views, seeking to strike a balance between encouraging shared values and upholding moral pluralism.[[8]](#footnote-8) Similarly, Lon L. Fuller emphasized the importance of creating a stable and predictable legal framework, rather than enforcing a particular moral code.[[9]](#footnote-9)

Looking at intrinsic motivation and compliance, there are numerous potential benefits to having internally motivated compliance. These benefits can be significant and far-reaching. Internally motivated compliance has the potential to lower law enforcement and litigation expenses, increase the credibility of the justice system, and encourage greater participation from the public.[[10]](#footnote-10)–[[11]](#footnote-12) However, Oliver Wendell Holmes Jr.’s “bad man” theory of law presents a contrasting viewpoint, suggesting that the law should be understood primarily in terms of its consequences for those seeking to avoid punishment, implying that internalized motivations are less relevant than practical outcomes.[[12]](#footnote-13)

The question of whether a state benefits from its citizens internalizing their motivations for complying with the law has been a subject of significant debate among legal theorists.[[13]](#footnote-14) Many scholars argue that a legal system in which citizens comply due to internalized motivations rather than fear of punishment could lead to more stable and efficient legal institutions.[[14]](#footnote-15)

Nevertheless, critics argue that emphasizing internalized motivations may be idealistic and impractical, especially in pluralistic societies. This is because it may prove challenging to promote a widespread internalization of legal motivations due to diverse moral and cultural perspectives.[[15]](#footnote-16) The debate also raises questions regarding the appropriate role of the state in shaping citizens’ motivations, with some arguing that actively promoting the internalization of legal norms could infringe on individual autonomy and lead to state paternalism.[[16]](#footnote-17)

## Can we rely on people’s intrinsic motivation, considering what we know about behavioral ethics?

The use of intrinsic motivation to encourage voluntary compliance poses a significant challenge because of the complex psychological mechanisms that affect human behavior. While intrinsic motivation is typically considered a vital predictor of cooperative behavior, recent research indicates that individuals may not always have accurate insight into their own motivations. Various cognitive biases, particularly self-deception and motivated reasoning, affect the reliability of self-regulation.[[17]](#footnote-18) Consequently, this lack of self-awareness can be attributed to these biases.

Self-deception is a process through which individuals convince themselves of a desired reality, even when evidence suggests otherwise. This can cause people to believe that they are acting in alignment with their true values, when in reality they are not. This phenomenon poses a particular problem in the context of voluntary compliance, as individuals may justify non-compliant behavior while still holding onto the belief that they are abiding by their personal moral standards. Motivated reasoning, which is essentially a cognitive bias, further complicates this issue by causing individuals to selectively process information in a way that supports their desired conclusions.[[18]](#footnote-19) In the context of regulatory compliance, bias can cause people to interpret ambiguous situations in a way that justifies non-compliance while still maintaining their self-image as law-abiding citizens.

The implications of these psychological processes on regulatory policy are significant. Despite possessing strong intrinsic motivation to comply with regulations, individuals may be influenced by self-interest, high personal costs, or other external factors that can lead to non-compliant behavior without the individual fully recognizing or acknowledging this shift. This disparity between perceived and actual motivations raises serious concerns about the reliability of self-regulation and the extent to which policymakers can trust the public to consistently engage in voluntary compliance over time.[[19]](#footnote-20) Due to the lack of robust empirical evidence on the long-term sustainability of intrinsically motivated compliance in the face of conflicting interests, there is a risk that policies overly reliant on voluntary compliance may ultimately prove ineffective or even counterproductive.

## A taxonomy of whether voluntary compliance might work

To evaluate the effectiveness of voluntary compliance under different legal doctrines, it is important to understand that not all regulatory situations require the same amount of public cooperation or innate motivation. One can develop a taxonomy of legal doctrines by considering factors such as the ease of enforcement, the significance of compliance quality, and the visibility of the regulated behavior. This framework allows for a more nuanced approach to regulatory strategies, acknowledging that in some cases, traditional command-and-control measures may be more appropriate and effective than relying on voluntary compliance.[[20]](#footnote-21)

For example, in areas where enforcement is simple and affordable, such as traffic violations captured by automated cameras, the importance of voluntary compliance decreases. Likewise, in regulatory settings where strict compliance is not as crucial and following the legal requirements in a literal sense is enough, intrinsic motivation may have a less substantial impact. Examples might include certain reporting requirements or standardized procedures commonly used in business operations.[[21]](#footnote-22)

Additionally, when behaviors are closely monitored or easily observed, there may be less of a need to rely on voluntary compliance with regulations. In such cases, the threat of being caught and facing punishment can act as an effective deterrent, which could decrease the necessity of promoting intrinsic motivation among the general population. This approach might be particularly effective in areas such as public littering or adherence to building codes, where violations are readily apparent.[[22]](#footnote-23)

The likelihood of widespread cooperation and the popularity of a behavior are both crucial factors to consider. If a regulation is in line with prevailing social norms or commonly held values, it may require fewer enforcement measures. For example, recycling programs in environmentally conscious communities often enjoy high levels of voluntary compliance without the need for strict monitoring.[[23]](#footnote-24)

Furthermore, the impact of errors or compliance failures on cost is a crucial factor in determining the appropriate regulatory strategy. In high-stakes fields, where non-compliance could result in serious consequences, such as food safety regulations or nuclear power plant operations, relying only on voluntary compliance may be too risky. In these cases, a more robust monitoring and enforcement system may be necessary, even if it comes at a higher cost.[[24]](#footnote-25)

It is also important to consider situations where monitoring does not have a major impact on reducing intrinsic motivation. This is commonly seen in contexts where behavior is less personal or relationship-driven, such as corporate financial reporting or industrial emissions control. In such situations, implementing a combination of monitoring techniques and encouraging voluntary compliance could prove to be the most effective approach. This is because the presence of oversight is less likely to diminish individuals’ sense of moral obligation.[[25]](#footnote-26)

Recognizing these distinctions is crucial for policymakers when designing regulatory strategies. Although voluntary compliance and intrinsic motivation can be useful in certain situations, they may not be universally applicable or efficient. Policymakers can enhance resource allocation and minimize societal costs by customizing regulatory approaches to fit the unique features of each legal doctrine, thereby increasing compliance to the maximum possible extent.[[26]](#footnote-27)

Differentiated voluntary compliance

To encourage voluntary compliance, policymakers must take into account various complex factors that go beyond conventional regulatory measures. The advantages of using legitimacy to promote compliance over morality have been increasingly recognized, as legitimacy tends to generate more sustainable and widespread adherence to rules. This shift demands a focus on procedural justice and transparent governance in order to establish public trust in regulatory institutions.[[27]](#footnote-28)

Innovative legislation and advancements in monitoring technology provide promising approaches for improving regulatory strategies. Policymakers can gather empirical evidence on the effectiveness of various approaches to voluntary compliance by carrying out temporary or geographically restricted regulatory experiments. At the same time, advanced technologies are facilitating more refined and less intrusive monitoring methods that could potentially mitigate the adverse effects of surveillance on intrinsic motivation.[[28]](#footnote-29)

As we discussed earlier, the concept of “watchful trust” in regulatory regimes presents an intriguing balance between trust-based and control-based approaches. This strategy involves maintaining a foundation of trust in regulated entities while implementing specific monitoring mechanisms. Finding the proper balance between trust and monitoring presents a significant challenge. Excessive monitoring may undermine the trust it intends to validate. Moreover, policymakers must balance the aim of optimal regulatory performance with the need to maintain public trust and legitimacy.[[29]](#footnote-30)

To encourage voluntary compliance, a comprehensive understanding of how various motivational factors, cultural contexts, and specific regulated behaviors interact with each other is crucial. Considering the intricacy of human motivation and the varied regulatory challenges, it is improbable that a uniform solution will prove effective. Instead, policymakers should strive for a balanced approach that integrates insights from behavioral science, legal theory, and empirical research to develop regulatory frameworks that are both effective and perceived as legitimate by the public.[[30]](#footnote-31)

## Factors influencing the choice of regulatory strategy: A comprehensive framework

Regulatory bodies face a complex decision-making process when determining the most effective approach to ensuring compliance with laws and regulations. This framework outlines ten key factors that can impact the decision-making process between opting for voluntary compliance-based strategies versus traditional command-and-control approaches, with several hybrid options available in between.

1. Ease of Enforcement: The ability to monitor and enforce regulations is crucial for their effectiveness. Regulations that are easily enforceable, such as those monitored by automated traffic cameras, tend to lean towards command-and-control approaches. In contrast, complex financial regulations that are difficult to enforce might benefit from more cooperative, voluntary compliance strategies.

2 The Importance of Compliance Quality: In instances where compliance quality is critical, such as in food safety regulations, stricter oversight may be required. However, for less critical areas, such as routine paperwork filing, voluntary compliance may be sufficient.

3. Visibility of Regulated Behavior: Highly visible behaviors, such as littering in public places, may be more effectively addressed through social norms that encourage voluntary compliance. However, corporate practices that are not as visible may require formal regulatory approaches in order to ensure compliance.

4. Popularity of Behavior / Likelihood of Cooperation: Behaviors that are popular or aligned with public values, such as recycling in environmentally conscious communities, are more likely to be voluntarily complied with. However, unpopular measures, such as certain tax policies, may require stronger enforcement mechanisms.

5. Cost of Non-Compliance Mistakes: High-stakes areas, such as nuclear power plant safety, require strict command-and-control measures. On the other hand, low-stakes administrative violations can be addressed with more flexible and voluntary approaches.

6. Impact of Monitoring on Intrinsic Motivation: For activities that rely on personal relationships and intrinsic motivation, voluntary compliance may be more effective than external monitoring. However, in areas such as corporate financial reporting where motivation is less affected by monitoring, a more structured approach might be necessary.

7. Existing Social Norms and Values: Regulations that are consistent with the prevailing social norms are more likely to achieve voluntary compliance. However, regulations that are not aligned with social norms may need stronger enforcement measures.

8. Resource availability: The availability of resources for enforcement is an important factor that influences the approach taken towards command and control. With high resource availability, a more comprehensive approach can be taken, while limited resources may require a greater reliance on voluntary compliance strategies.

9. Complexity of Regulated Activity: Collaborative and voluntary approaches can be advantageous for highly complex activities such as implementing environmental protection measures. On the other hand, simpler regulations, like speed limits, can typically be enforced effectively using traditional methods.

10. Time Sensitivity of Compliance: Immediate compliance requirements, such as emergency response protocols, may necessitate strict command-and-control measures. However, for long-term policy implementations, gradual and voluntary approaches based on compliance might be allowed.

These factors create a spectrum ranging from pure voluntary compliance to strict command-and-control. The most effective regulatory strategies are likely to incorporate elements of both approaches, depending on the specific context and how these factors interact with each other.

## Trust and legitimacy versus morality

## Throughout this book, we have presented a distinct approach that deviates from conventional methods for cultivating trust among individuals. Chapter Seven specifically examines how technology can help build trust while minimizing the potential impact of monitoring on people’s behavior. However, our main focus has been on the concept of intrinsic motivation and understanding the factors that drive individuals to trust each other.

## Although morality is important in promoting compliance among certain individuals, our conclusions in certain sections of the book are somewhat pessimistic. In order to establish trust, we need to ensure that a sufficient number of people are willing to cooperate. Furthermore, we need to ensure that cooperation truly takes place and address the problem of conditional cooperation, where an individual’s willingness to cooperate is largely impacted by the actions of others. This situation creates an unstable environment where the presence of a large number of uncooperative individuals can lead to a breakdown in cooperation, causing even those who were initially willing to cooperate to change their behavior. Therefore, while there may be intrinsically motivated individuals, they may be outnumbered by others who eventually exhibit different behaviors.

## Therefore, it appears that prioritizing institutional factors pertaining to trust and legitimacy is more effective in encouraging voluntary compliance among the public than investing most efforts in persuading them about the morality of the law.

During my extensive study of the concept of morality, I have come to realize that it is a double-edged sword. People can interpret it in a way that aligns with their own self-interest and prior beliefs. It could also be influenced by shifts in people’s political views regarding what is considered moral. In contrast, focusing on legitimacy and trust involves examining the procedural and institutional factors that influence intrinsic motivation, which is associated with legitimacy. However, even trust and legitimacy, which are less likely to be affected by self-interpretation, have limited ability to ensure stable compliance.

## These conclusions suggest that although it may be possible to trust certain individuals in certain situations, it is ultimately necessary to supplement this approach with other methods. In order to promote trust effectively, we need to make an effort to comprehend how different motivations can work together. This involves encouraging individuals by appealing to their sense of reason and understanding the most effective ways to motivate them. Although personalization has advanced significantly, it remains difficult to predict who will internalize this message. Therefore, a combined approach is essential. This, to some degree, summarizes the key insight of this book.

## The challenge of polarization

## Can this work in the context of polarized counties?

## Is it possible to trust and monitor at the same time?

One of the greatest challenges in transitioning from command and control to trust-based regulation and focusing on intrinsic motivation is the ability to successfully integrate them without causing harm to one another. If policymakers did not have to worry about negative interactions between extrinsic and intrinsic measures, they would not need to choose between different regulatory and enforcement methods. They could use all of them simultaneously.

In Chapters 3 and 4 of the book, we discussed the crowding-out effect of a sanction-based approach, which poses a significant challenge to using monitoring and sanctions alongside more intrinsic approaches. An important approach that attempts to allow both approaches to function together comes from Koen Verhost and colleagues. Their paper examines the crucial role of trust in regulatory regimes and how it affects their performance and legitimacy.[[31]](#footnote-33) The authors employ cross-country survey data to measure trust and distrust among different actors within regulatory regimes. Their analysis shows that having a watchful and trusting relationship among actors is associated with higher regulatory performance. This kind of relationship is characterized by an attitude of “trust but verify.” On the one hand, when there is high trust and low distrust, it can enhance regime legitimacy. On the other hand, being too watchful can actually undermine regime legitimacy.

The authors of the study argue that being overly watchful can adversely affect legitimacy. This is because it implies a constant state of suspicion and negative expectations towards the other party’s actions. This situation encourages mutual distrust, fear, and a perception of a zero-sum game, which hinders the development of shared norms and values. As a result, this creates a more challenging environment for the legitimacy of the system. Regime actors may find it difficult to accept the procedures and decision-making process of the regulatory regime if they are highly suspicious of the core actors involved in developing, implementing, enforcing, and adjudicating regulations on certain aspects. However, if regime actors trust the core actors wholeheartedly and without reservation, without feeling the need to be suspicious in any area of their relationship, it becomes easier for them to accept the procedures and decision-making process of the regulatory regime.

Verhoest and colleagues emphasize that actors in regulatory regimes adopt a logic of consequentiality when evaluating and contributing to regime performance, meaning that they behave strategically while considering their own interests.[[32]](#footnote-35) However, in the context of advancing regime legitimacy, the logic of appropriateness appears to be more applicable. This means that decisions are driven by social norms defining appropriate behavior rather than by evaluative reasoning. The authors have concluded that it may be challenging, if not impossible, to maximize both the performance and legitimacy of regulatory regimes while maintaining high-trust relationships. This is because the watchfulness required to sustain performance may compromise legitimacy.

## Thinking on compliance motivation in pairs

Based on the analysis above, the focus should be less on whether something is intrinsic or extrinsic, and more on finding the right combinations. Given that it is difficult to identify a single motivation that will be effective, and that personalization is also challenging, we may need to consider a different approach. Morality may be effective when working alone, but when it comes to deterrence, reasoning may be more effective than morality.

For example, Similarly, Kirchler and colleagues proposed the “slippery slope” framework in the context of taxes. They argue that understanding both the power of authorities and trust in authorities is crucial for understanding enforced and voluntary compliance and that it is impossible to focus only on one of them. [[33]](#footnote-37)

##

## Religion and Intrinsic Motivation

## What states can learn from religion regarding internalization?

## When considering examples of how populations can voluntarily internalize and follow rules, religion often comes to mind as a prime illustration. There are clearly limited enforcement mechanisms in place to ensure that believers follow the rules. Furthermore, all religions emphasize the importance of adhering to rules when people are intrinsically motivated to do so. Those who demonstrate higher levels of compliance are true believers, a concept usually associated with religion.[[34]](#footnote-38)

## Studying religion can provide valuable insights into how states can encourage citizens to internalize certain values, which could inform ways to increase voluntary compliance with regulations. Religious institutions have played a crucial role in developing intrinsic motivation through diverse methods. These approaches can serve as valuable lessons for state institutions seeking to internalize values.

## Religious teachings often emphasize the importance of moral values, such as compassion and honesty, which can become deeply ingrained in individuals’ motivational structures.[[35]](#footnote-39) Religion can also provide a framework for finding meaning in life, giving people a sense of purpose that guides their actions and motivations.[[36]](#footnote-40) These insights suggest that states could potentially encourage the internalization of values by defining clear moral frameworks and fostering a shared sense of purpose among citizens.

## However, the use of religious approaches to promote voluntary compliance is limited in its effectiveness. Religious institutions often rely on creating a sense of community to reinforce shared values and motivations, which may be challenging for states to replicate on a large scale.[[37]](#footnote-41) Furthermore, studies on the concept of deities who punish suggest that fear of punishment, rather than purely intrinsic motivation, may play a significant role in religious compliance.[[38]](#footnote-42) This raises questions about whether internalizing value is sustainable and authentic.

## Like religious institutions, each state has the means to affect intrinsic motivation. Education is essential in shaping values and beliefs,[[39]](#footnote-43) while public discourse has the power to frame issues and influence public opinion.[[40]](#footnote-44) Laws and policies can create incentives that indirectly affect intrinsic motivation.[[41]](#footnote-45) However, the effectiveness of these state-driven approaches in changing deeply held beliefs and values remains uncertain.[[42]](#footnote-46)

## The long-term sustainability of changes in intrinsic motivation, whether brought about by religion or the state, is a key area of uncertainty.[[43]](#footnote-47) Although it has been demonstrated that religious practices, such as repetition and habit formation, can influence behavior in the long run, it is uncertain how well states can replicate these processes. Moreover, the extent to which people genuinely internalize religious teachings and state policies, as opposed to simply superficially adopting them, remains a subject of debate.[[44]](#footnote-48)

## As states explore the potential of learning from religious practices in order to promote the internalization of values, they must also navigate the complexities and limitations that come with adapting these strategies to the unique context of civic life and governance. The challenge is to balance the potential benefits of promoting intrinsic motivation with the practical limitations and ethical concerns of governmental intervention in individual values and beliefs.

## Community versus state approaches

Community-based governance provides several advantages in promoting voluntary compliance and intrinsic motivation compared to state government. In close-knit communities, monitoring mechanisms tend to be more effective due to the frequent and intimate interactions among members.[[45]](#footnote-49) Reputation plays a critical role in these settings, as individuals are motivated to maintain a positive image among their peers, leading to increased compliance with community norms.[[46]](#footnote-50) In community settings, people’s true character and intentions are more transparent, making it difficult for individuals to conceal their true nature from neighbors who observe their daily behaviors.[[47]](#footnote-51) This visibility can lead to a stronger commitment to community values and regulations, as people are more likely to internalize and act upon these norms when they know they are being observed by those with whom they interact regularly.[[48]](#footnote-52) Furthermore, community settings create a sense of personal connection and foster a sense of belonging that can motivate individuals to perform their civic duties more diligently than they might for a distant state authority that has little knowledge of their personal circumstances.[[49]](#footnote-53) Adopting a localized approach to governance can enable regulatory authorities to tap into deeper wells of motivation by leveraging social ties and local knowledge to encourage compliance. This is often more effective than centralized state governance, which often struggles to achieve similar results.[[50]](#footnote-54)

1. Finnis, John. *Natural Law and Natural Rights*. Oxford University Press, 2011. [↑](#footnote-ref-1)
2. Sherman, Nancy. *The fabric of character: Aristotle's theory of virtue*. Clarendon Press, 1989. [↑](#footnote-ref-2)
3. Annas, Julia. *Intelligent virtue*. Oxford University Press, 2011. [↑](#footnote-ref-3)
4. Plato. *The Republic*. Translated by Benjamin Jowett, The Internet Classics Archive, classics.mit.edu/Plato/republic.html. [↑](#footnote-ref-4)
5. Hart, H.L.A. *Law, Liberty, and Morality*. Stanford University Press, 1963. [↑](#footnote-ref-5)
6. Hart, H.L.A. *The Concept of Law*. Oxford University Press, 1961. [↑](#footnote-ref-6)
7. Devlin, Patrick. *The Enforcement of Morals*. Oxford University Press, 1965. [↑](#footnote-ref-7)
8. Rawls, John*. A Theory of Justice.* Belknap Press of Harvard University Press, 1971. [↑](#footnote-ref-8)
9. Fuller, Lon L. *The Morality of Law*. Yale University Press, 1964. [↑](#footnote-ref-9)
10. Tyler, Tom R., and Yuen J. Huo. *Trust in the Law: Encouraging Public Cooperation with the Police and Courts*. Russell Sage Foundation, 2002. [↑](#footnote-ref-10)
11. Sunstein, Cass R. "On the Expressive Function of Law." *University of Pennsylvania Law Review*, vol. 144, no. 5, 1996, pp. 2021-2053. [↑](#footnote-ref-12)
12. Holmes, Oliver Wendell Jr. "The Path of the Law." *Harvard Law Review*, vol. 10, no. 8, 1897, pp. 457-478. [↑](#footnote-ref-13)
13. Tyler, Tom R. *Why People Obey the Law*. Yale University Press, 1990. [↑](#footnote-ref-14)
14. Posner, Richard A. "A Theory of Primitive Society, with Special Reference to Law." *The Journal of Law and Economics*, vol. 23, no. 1, 1980, pp. 1-53. [↑](#footnote-ref-15)
15. Kymlicka, Will. *Multicultural Citizenship: A Liberal Theory of Minority Rights*. Clarendon Press, 1995. [↑](#footnote-ref-16)
16. Dworkin, Gerald. "Paternalism." *The Monist*, vol. 56, no. 1, 1972, pp. 64-84. [↑](#footnote-ref-17)
17. Feldman, Yuval. *The Law of Good People: Challenging States' Ability to Regulate Human Behavior*. Cambridge University Press, 2018. [↑](#footnote-ref-18)
18. Kunda, Ziva. "The Case for Motivated Reasoning." *Psychological Bulletin*, vol. 108, no. 3, 1990, pp. 480-498. [↑](#footnote-ref-19)
19. Bazerman, Max H., and Ann E. Tenbrunsel. *Blind Spots: Why We Fail to Do What's Right and What to Do about It*. Princeton University Press, 2011. [↑](#footnote-ref-20)
20. Van Rooij, Benjamin, and Adam Fine. "Toxic Corporate Culture: Assessing Organizational Processes of Deviancy." *Administrative Sciences*, vol. 8, no. 3, 2018, p. 23. [↑](#footnote-ref-21)
21. Feldman, Yuval. *The Law of Good People: Challenging States' Ability to Regulate Human Behavior*. Cambridge University Press, 2018. [↑](#footnote-ref-22)
22. Etienne, Julien. "Compliance Theory: A Goal Framing Approach." *Law & Policy*, vol. 33, no. 3, 2011, pp. 305-333. [↑](#footnote-ref-23)
23. Farrow, Katherine, et al. "Social Norms and Pro-Environmental Behavior: A Review of the Evidence." *Ecological Economics*, vol. 140, 2017, pp. 1-13. [↑](#footnote-ref-24)
24. Coglianese, Cary, and David Lazer. "Management‐Based Regulation: Prescribing Private Management to Achieve Public Goals." *Law & Society Review*, vol. 37, no. 4, 2003, pp. 691-730. [↑](#footnote-ref-25)
25. Feldman, Yuval, and Orly Lobel. "Behavioral Trade-Offs: Beyond the Land of Nudges Spans the World of Law and Psychology." *Handbook of Behavioral Economics and the Law*, edited by Eyal Zamir and Doron Teichman, Oxford University Press, 2014, pp. 301-331. [↑](#footnote-ref-26)
26. Blanc, Florentin. *From Chasing Violations to Managing Risks: Origins, Challenges and Evolutions in Regulatory Inspections*. Edward Elgar Publishing, 2018. [↑](#footnote-ref-27)
27. Tyler, Tom R. *Why People Obey the Law*. Princeton University Press, 2006. [↑](#footnote-ref-28)
28. Yeung, Karen. "Algorithmic Regulation: A Critical Interrogation." *Regulation & Governance*, vol. 12, no. 4, 2018, pp. 505-523. [↑](#footnote-ref-29)
29. Six, Frédérique. "Trust in Regulatory Relations: How New Insights from Trust Research Improve Regulation Theory." *Public Management Review*, vol. 15, no. 2, 2013, pp. 163-185. [↑](#footnote-ref-30)
30. Feldman, Yuval, and Orly Lobel. "Behavioral Trade-Offs: Beyond the Land of Nudges Spans the World of Law and Psychology." *Handbook of Behavioral Economics and the Law*, edited by Eyal Zamir and Doron Teichman, Oxford University Press, 2014, pp. 301-331. [↑](#footnote-ref-31)
31. Verhoest, Koen, et al. "How Trust Matters for the Performance and Legitimacy of Regulatory Regimes: The Differential Impact of Watchful Trust and Good-Faith Trust." *Regulation & Governance*, 2024, doi:10.1111/rego.12596. [↑](#footnote-ref-33)
32. Supra note 26. [↑](#footnote-ref-35)
33. ? [↑](#footnote-ref-37)
34. Kagan, Robert A., Neil Gunningham, and Dorothy Thornton. "Fear, duty, and regulatory compliance: lessons from three research projects." *Explaining compliance: Business responses to regulation* (2011): 37-58. [↑](#footnote-ref-38)
35. Allport, Gordon W., and J. Michael Ross. "Personal Religious Orientation and Prejudice." *Journal of Personality and Social Psychology*, vol. 5, no. 4, 1967, pp. 432-443. [↑](#footnote-ref-39)
36. Park, Crystal L. "Religion as a Meaning-Making Framework in Coping with Life Stress." *Journal of Social Issues*, vol. 61, no. 4, 2005, pp. 707-729. [↑](#footnote-ref-40)
37. Graham, Jesse, and Jonathan Haidt. "Beyond Beliefs: Religions Bind Individuals into Moral Communities." *Personality and Social Psychology Review*, vol. 14, no. 1, 2010, pp. 140-150. [↑](#footnote-ref-41)
38. Norenzayan, A., et al. "The cultural evolution of prosocial religions." *Behavioral and Brain Sciences*, 39, 2016, e1. [↑](#footnote-ref-42)
39. Dee, Thomas S. "Are There Civic Returns to Education?" *Journal of Public Economics,* vol. 88, no. 9-10, 2004, pp. 1697-1720. [↑](#footnote-ref-43)
40. Entman, Robert M. "Framing: Toward Clarification of a Fractured Paradigm." *Journal of Communication*, vol. 43, no. 4, 1993, pp. 51-58. [↑](#footnote-ref-44)
41. Frey, Bruno S. *Not Just for the Money: An Economic Theory of Personal Motivation*. Edward Elgar Publishing, 1997. [↑](#footnote-ref-45)
42. Maio, Gregory R., et al. "Ideologies, Values, Attitudes, and Behavior." *Handbook of Social Psychology*, edited by John Delamater, Springer US, 2006, pp. 283-308. [↑](#footnote-ref-46)
43. Wrzesniewski, Amy, et al. "Multiple Types of Motives Don't Multiply the Motivation of West Point Cadets." *Proceedings of the National Academy of Sciences*, vol. 111, no. 30, 2014, pp. 10990-10995. [↑](#footnote-ref-47)
44. Kirkpatrick, Lee A., and Ralph W. Hood. "Intrinsic-Extrinsic Religious Orientation: The Boon or Bane of Contemporary Psychology of Religion?" *Journal for the Scientific Study of Religion*, vol. 29, no. 4, 1990, pp. 442-462. [↑](#footnote-ref-48)
45. Ostrom, Elinor. *Governing the Commons: The Evolution of Institutions for Collective Action*. Cambridge University Press, 1990. [↑](#footnote-ref-49)
46. Posner, Eric A. *Law and Social Norms*. Harvard University Press, 2000. [↑](#footnote-ref-50)
47. Ellickson, Robert C. *Order Without Law: How Neighbors Settle Disputes*. Harvard University Press, 1991. [↑](#footnote-ref-51)
48. Putnam, Robert D. *Bowling Alone: The Collapse and Revival of American Community*. Simon & Schuster, 2000. [↑](#footnote-ref-52)
49. Scott, James C. *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed*. Yale University Press, 1998. [↑](#footnote-ref-53)
50. Ostrom, Elinor. *Understanding Institutional Diversity*. Princeton University Press, 2005. [↑](#footnote-ref-54)