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

Contents

[**Chapter 3. Internalization vs. Crowding Out** 1](#_Toc162264589)

[Why can’t we have it all at the same time? 3](#_Toc162264590)

[What exactly does Crowding Out mean? 4](#_Toc162264591)

[The Problem with the Crowding Out Argument 4](#_Toc162264592)

[Not All Intrinsic Motivations are Created Equal 5](#_Toc162264593)

[The Multiple Motives Problem 6](#_Toc162264594)

[Variation in the Crowding Out Effect 6](#_Toc162264595)

[A taxonomy of Crowding Out Processes 7](#_Toc162264596)

[Self-related Crowding out: 7](#_Toc162264597)

[Social related crowding 8](#_Toc162264598)

[Can compliance behavior be crowded out? 8](#_Toc162264599)

[Internalized vs. Non-coerced compliance. 9](#_Toc162264600)

[Internalization (crowding in) vs. crowding out 10](#_Toc162264601)

[Heterogeneity between people in Crowding Out Effect of Intrinsic Motivation 11](#_Toc162264602)

[Framing of incentives and crowding out motivations. 11](#_Toc162264603)

[How Can Regulatory Intervention Crowd Out Intrinsic Motivation? 13](#_Toc162264604)

[Crowding Out the ability to signal virtue to Others 14](#_Toc162264605)

[The dispute over ultra-orthodox enlistment to the military. 14](#_Toc162264606)

[Punishment and Crowding Out 15](#_Toc162264607)

[Relational account of crowding out (e.g. fine is a price) 17](#_Toc162264608)

[Expressive vs. crowding out 17](#_Toc162264609)

[Crowding out, fairness and lack of trust 19](#_Toc162264610)

[Reactance theory as an alternative mechanism to crowding out 19](#_Toc162264611)

[Crowding out by giving alternative reasons? 20](#_Toc162264612)

[Discussion here by Zamir showing this is working 20](#_Toc162264613)

[Abstract of the paper 20](#_Toc162264614)

[Religion and Reason Giving 21](#_Toc162264615)

[Sanctions that Enhance Morality 22](#_Toc162264616)

[Fairness of the Law as Affecting the Likelihood of Crowding Out 22](#_Toc162264617)

[Crowding Out and Preference Change at the Same Time? 23](#_Toc162264618)

[Pareto Self-Improvement and the Efficacy of Changing Intrinsic Motivation 23](#_Toc162264619)

[Is changing intrinsic Motivation Needed for a Sustainable Behavioral Change? 25](#_Toc162264620)

[Other Forms of Attitude Change Mechanism 25](#_Toc162264621)

[What Regulatory Factors are More Likely to Change Your Preferences? 26](#_Toc162264622)

[Is There a Regulatory Instrument That is Best Suited to Change Preferences? 26](#_Toc162264623)

[Behavioral Ethics Challenges to the Practical Wisdom of Using Law to Change Preferences 27](#_Toc162264624)

 [What Can We Learn from Religion 29](#_Toc162264625)

[Why religion might not be about voluntary compliance 29](#_Toc162264626)

[Is religion about religion about internalization or punishment? 29](#_Toc162264627)

[What kind of people do we want, honest, ethical, or compliant? 29](#_Toc162264628)

[Honesty: Beyond Compliance 29](#_Toc162264629)

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). In The previous chapter we have also explored the advantages of intrinsic motivation for compliance[[2]](#footnote-2), in terms of its quality, durability and it’s ability to lead to more meaningful internalization process relevant also to other domains.

Most studies on the interaction between internalization and compliance suggest that by focusing on intrinsic motivation, the state can achieve better results.[[3]](#footnote-3) Albeit, we have also suggested that some intrinsic motivation are better than others. For example, some of the research such as that of Tyler and Levi,[[4]](#footnote-4) mentioned in the previous chapter, also discusses the advantages of complying due to factors such as legitimacy and fairness, rather than morality, as morality might be more subjective and might also change. Furthermore, in various settings we see an argument where the relationship between intrinsic motivation and actual compliance behavior, doesn’t exist or at least is very low. For example, as will be discussed in chapter with regards to environmental attitudes, many studies show that the relationship between environmental attitudes and actual environmental behavior is significant but not as strong as one could have expected, given the complexity of the factors that moderate relationship between environmental motivation and environmental behavior[[5]](#footnote-5). Nonetheless other studies that focuses on self determination theory did find 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 tax morale contexts there are also positive relationship between countries with high tax morale countries and the level of tax evasion[[7]](#footnote-7).

Overall, it is important to consider a variety of factors when promoting compliance, including intrinsic motivation, procedural justice, legitimacy, and the specific details of the behavior in question. A nuanced approach that takes into account these different factors is likely to be more effective than a one-size-fits-all approach based solely on intrinsic motivation which obviously won’t really lead in itself to the needed compliance. There are also numerous factors that might moderate the direction of the effect of law on intrinsic motivation, which relates to factors such as legitimacy and trust, where for example, highly trusted governments could more easily enhance intrinsic motivation, through regulation.

Since, intrinsic motivation is seen by many as leading to higher quality compliance, the big question is why can we use both intrinsic motivation and extrinsic motivations for those who lack intrinsic motivation at the same time In the previous chapters, we have also demonstrated that there are many types of intrinsic motivations and in this chapter we will focus on what this recognition is doing to that recognizing as such may have significant impact on what happens when the law intervenes. In theory since intrinsic compliance motivation seems to have some positive relationship with actual compliance behavior, the question we will focus on in this chapter, why can’t regulations combing the good value of intrinsic motivation with monitoring and extrinsic measures operate together to achieve the best of all worlds?

In our analysis in this chapter, we start with a dichotomous and somewhat inaccurate way of internalization, where the law affects intrinsic motivation in the desired direction and crowding out where the existence of the law undermines peoples’ intrinsic motivations. We then move on to show that in fact when accounting for the variation between the different compliance motivations and the different behaviors many of the existing findings are expected to be limited or at least with limited predictability. As we will explain in this chapter, the two effects might live side by side, so the division of the discussion isn’t aimed at comparing them or trying to understand which of them is stronger but rather 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, 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 effect be related to the fact that other people were involved, and hence social norms were more likely to function? Or could it be related to a situation where neither of the parties benefit 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, where 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 that is needed is not just which force is better but rather whether it can do both functions at the same time. In other words, in the contexts in which laws crowd out intrinsic motivation, can it still at the same time lead to a change in preferences?

In theory, both processes can co-exist through many possible parallel processes. First, people might change their preferences through behavior or habit formation and not necessarily through 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 attempting 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, where you have to use command and control and self-regulation at the same time or nudges and sanctions at the same time the combination cannot work simultaneously as one approach (e.g. sanctions) interrupts the others (e.g. trust enhancing regulation). However, there are situations where a regulator can have it all with no or relatively marginal destructive effects on both accounts. For example, when it can emphasize 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, both 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, for the most part, research with regards to crowding out motivation, focuses on incentives[[9]](#footnote-9) and compensation as undermining peoples’ intrinsic motivation (e.g. civic duties[[10]](#footnote-10)) to comply and to cooperate. That is people who before an extrinsic cue was introduced, were intrinsically motivated to cooperate and once the extrinsic motivation was introduced it had an effect on how the intrinsic motivation operates and in the extreme cases it completely replaced it. In many ways, the crowding out effect is seen as one of the main reasons why the desired outcome isn’t reached when legislation focuses solely on extrinsic motivation, without attempting to influence people’s intrinsic motivation.

Traditionally, it has been found that the safest regulatory approach is to focus on the common denominator 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 as a way to avoid the need to deal with the complexity and uncertainty associated with targeting the presumed motivation of the individuals[[11]](#footnote-11) is doomed to fail.

## The Problem with the Crowding Out Argument

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

Answering these questions is crucial to our ability to predict what we gain or lose from voluntary compliance where extrinsic motivation is somewhat blocked from the perspective of the person deciding whether to comply or not.

Clearly, there is a difference in the effect on people’s crowded out compliance, between how social norms, citizenship, morality or knowledge are being crowded out.

Much of the common wisdom according to which the law focuses on extrinsic motivation is likely to undermine internalized and when the law focuses on intrinsic motivation (e.g. giving reasons) it is likely to enhance internalized compliance. However, it is important to note that many other scholars suggest that processes such as habit formation or cognitive dissonance[[12]](#footnote-12) could be a better process to understand the effect of law on people’s preferences and those are not related to any change in people.

This view is simplistic for a few reasons:

First, in theory, law is a multi-faceted concept, and it could target both types of motivation at the same time. law may, amongst other things, cause a potential crowding out, but that it may not occur in every case and that it’s not certain that if there is legislation present, then intrinsic motivation will be crowded out. Second, even crowding out models focuses on situations in which intrinsic motivation to comply is present, which is not necessarily the case in many situations or across many types of people.

Third, it is important to differentiate between whether the desirable behavior is being reduced or whether the intrinsic motivation, even in contexts where it exists, is being reduced. Possibly just the reduction in intrinsic motivation might carry more limited policy relevancy if the crowding out effect doesn’t reduce the desirable behavior. The exception is of course the contexts in which intrinsic motivation plays a central role in the likelihood that compliance will occur, as will be developed in future chapters.

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

In contrast, when it comes to scientific truth this is less likely to be crowded out by the law as there is no greater social value to obeying because of science. On the other hand, sanctions, for example, were shown to influence morality but are orthogonal when it comes to scientific truth. In addition, it is important to understand that it is not always the case that the law must either be extrinsically or intrinsically oriented. In many of the aspects, it can be both giving rationales to comply and also signaling to people that lack of compliance will not be tolerated.

## Not All Intrinsic Motivations are Crowded Equally

How exactly intrinsic motivations are being crowded out, for how long, is it a social process or an individual process, there are many competing mechanisms and there are various accounts that attempt to explain what intrinsic motivation is more likely to be crowded out. For example, clearly intrinsic motivation such as pro-social motivation is more likely to suffer from external interventions, however if one thing that a certain institution is legitimate and likely to comply with it, is it really the case that because of some legal reliance on external measures, it will be crowded out and he will no longer believe that the legal institution is legitimate? Hence there is a need to focus extensively on understanding what intrinsic motivations we are talking about before we could predict anything about the likelihood of crowding out.

## The Multiple Motives Problem

Another complication of the crowding out argument is that it assumes not just that the law is one dimensional but also that people’s motivation to comply is uniform, which may be easily refuted. For example, while some studies might 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 explain tax compliance[[14]](#footnote-14), as many people are complying for cooperative reasons[[15]](#footnote-15). Specifically as will be discussed in Chapter 9 that focus on taxes, the more updated view on tax compliance[[16]](#footnote-16) see some need for a balance between power or authorities and trust of authorities, when attempting to understand the likelihood of tax compliance over time. Thus, even if a dominant motivation may be identified, as say cost benefit, it doesn’t undermine the existence of parallel motivations to obey the law and states rarely rely on one motivation when attempting to change the behavior of people. These problems are present also in the fine is a price paradigm which resembles much of the discussion about the crowding out in the behavioral economics literature. For example, if a person recycles because he believes that this is important to protect the environment, as well as to signals to his neighbors that he is a virtuous person, adding sanctions to those who don’t recycle, will only harm the social signaling motivation, but not the scientific motivation in the importance of recycling to the future of the earth. Hence, such analysis suggests the limitation of much of the crowding out research.

## Variation in the Crowding Out Effect

The above discussion suggests that we need to account for a few moderators when we try to examine what is the likelihood of legal intervention on the likelihood of law changing the intrinsic motivation of people. For example when speaking about intrinsic motivation in the covid world, as will be developed in chapter 8, one can talk about factors such as solidarity[[17]](#footnote-17) and morality on one hand, and on trust in science and in scientists on the other[[18]](#footnote-18). Both could be defined as intrinsic compliance motivations but clearly their crowding out effect is likely to be different. For example, one might speculate that under conditions of sanctions, some of the care for solidarity might disappear, however, it seems less related to the trust in scientists. Thus, The crowding out of these two types of intrinsic motivation is of course react differently both because they are different motivation and hence their endurance is different and also because each of one them is likely to react differently to the specific type of

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

1. What intrinsic motivation could be crowded? (E.g. morality, belief in science)
2. What is process of crowding out? (e.g over-justification, reaction)
3. What is the outcome of the crowding out effect (Behavior disappears vs. behavioral quality is being reduced)
4. What happens to the compliance behavior its quantity is being reduced or its quality is being reduced?
5. Inter person effects (what type of people will comply more and what types will comply less)
6. How the bad and good outcomes are being compared (benefit in terms of quality, relative to costs in terms of less people cooperating)
7. Short term vs. long term effects
8. Effect on behavior vs. effect on attitudes and beliefs (e.g. internalizing)
9. We will also examine what in the law is leading to the crowding out?
10. What processes are happening when a behavior is being legalized and when sanctions are being introduced.?

In much of the research on crowding out motivation most of these questions are being ignored. Furthermore, most of the research on crowding out focuses on monetary interventions, not paying any attention to the more complex of effect of using regulation and enforcement. While laws as incentives both represent extrinsic interventions, laws are far more complex in understanding their ability to crowd out intrinsic motivation, as the law itself communicates with intrinsic motivations[[19]](#footnote-19) and its effect could not be reduced simply to increasing the price of behaviors which are against to the law. Given this further complexity we view in crowding out effect creates by laws, we will outline the different processes which could be triggered by law and could be all be labeled as crowding out motivation.

And we divide them into two categories, **self-related crowding out** and **social related crowding out**.

Is it self-related, such as over justification, where the effect is on the self-perception of the individual of why it is that they are behaving in a certain way, or is it social related in the sense that it undermines the virtue signaling which disappears?

## A taxonomy of Crowding Out Processes

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

## Self-related Crowding out:

1. Over justification[[20]](#footnote-20) : The idea behind this process which in a sense is the original crowding our paradigm is related to original self determination model by Deci[[21]](#footnote-21) in 1971, where people attribute their own behavior to extrinsic rather than intrinsic reasons. In that regard the existence of law, especially with a presence of an enforcement mechanism is likely to have a similar effect to incentives. In contrast to incentives, when it comes to the law, it is less likely that the law will be removed and in that regard the classical fear of the crowding out effect when incentives are being introduced is weaker.
2. Attention[[22]](#footnote-22) in a somewhat related to the over justification effect, where people focus their attention on the extrinsic incentives and fail to account for the effect of intrinsic motivation on their behavior. Here the difference between expected effect of incentives and laws seems to depend on their relative saliency which might 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) when it comes to the effect of laws vs. incentives through the lenses of control and trust, one might be incentives as giving greater autonomy on one hand, as people can choose not to take the incentive but in terms of trustworthiness, since the law is general and not directed at the individual, there might be less of a problem of feeling not trustworthy. The law might be seen as being related to guidance rather than just to lack of trust that the person will misbehave.
4. Less Spontaneous, e.g. (in the context of pro social behavior)[[24]](#footnote-24) another less known mechanism which has been called crowding out in the literature, is basically, saying that when extrinsic measures are present, people become more calculative and rather than thinking on the behavior itself, they are thinking of what you might be getting it of it. Continuing the hypothetical discussion This is more likely to happen with incentives which is more related to measurement, than with regard to the legality effect which might be different.
5. Cognitive dissonance[[25]](#footnote-25): Another important somewhat neglected mechanism is the cognitive dissonance , which focuses on the discrepancy between free choice and attitudes. Supposedly 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 and hence the likelihood of dissonance being created and hence attitude change happening is being reduced.

### Social related crowding

1. Decline in virtue signaling[[26]](#footnote-26) (e.g. harm of monetary incentives to social virtue of whistle blowing[[27]](#footnote-27)) The more social aspect of the crowding out, is mostly related to the fact that when people engage in pro-social behavior, the are seeking to gain the approval of others which is higher when the behavior is seen as voluntary. This is not the case, when we think about behavior which is done for money or because of the fear from the law. Here too when it comes to legal compliance with limited enforcement, we might still have some virtue signaling by people who comply with a legal requirement even if they don’t have to do so, which we are less likely to see with incentives, unless they are very small as is the case in the original cognitive dissonance studies.
2. Bureaucratization of behavior[[28]](#footnote-28) another important mechanism is related mostly to legal effect, rather than to incentives effects is when a social practice becomes legalize its whole structure has to become transparent, documented, equal etc. such values associated with legality are of course important but are likely to change how people feel about engaging in them. As was evident in the paper with Markovitch and Pe’er affidavits create greater aversion relative to pledges partly because of the greater administrative burden[[29]](#footnote-29) associated with them.
3. Reactance[[30]](#footnote-30) (e.g. provocative effect of law[[31]](#footnote-31)) another mechanism, which could partly be defined as social and partly as individualistic is reactance theory. Where people react negatively to any attempt to limit their freedom of choice. Naturally this is more likely to happen especially when certain law threaten the values of a certain social group as we as the case with the nation law example. This could also happens as the original theory on an individual level, but in any case such reaction as extrinsic effect is less likely to be happening with regards to incentives
4. Relational (e.g. fine is a price[[32]](#footnote-32)) finally, another mechanism which could be seen as related to the idea of the difference between social and market relations[[33]](#footnote-33) such change is more likely to happen with incentives but again even legality, while not with a classical relational theory could defineintly change relationship between for example friends doing favors to duty holder demands it is being respected by the other party.

These very general analyses of the difference between the more discussed research regarding crowding out in incentive contexts and that of legality. Part of the take away message of this analysis is how complex is the ability to predict whether indeed a certain extrinsic intervention will lead to any crowding out is extremely hard to explore and predict.

## Can compliance behavior be crowded out?

Part of the problem in applying the crowding out paradigm on internalized compliance which is based on the research on motivation is the difference between the original studies which were related to various tasks people had to do in a lab and then extrinsic measures were introduced. In contrast to the crowding out context in the law, In compliance contexts, in many cases, the actual expected behavior was created and instructed by the state. Furthermore, even the motivation to internalize a certain behavior could be enhanced by the likelihood that not performing it might lead to an enhanced cost. Without the original intervention by the state, people might have never known how they need to behave. This is of course very different from the music loving students, we have discussed above, where a person loves to play music and then an extrinsic incentive undermines it.

Many compliance behaviors are very complex to execute and hence just wanting to do 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 or preferences or belief in science. In many studies, procedural justice and legitimacy might be seen as highly associated with intrinsic motivation,[[34]](#footnote-34) since one doesn’t need external forces such as incentives or monitoring to behave in a certain way. As discussed in the previous chapter about trust, in many ways factors related to legitimacy and procedural justice are at the same category. In that regard many of the justice compliance motivations might not be seen as intrinsic motivation to begin with. If we think about the original meaning of Deci's concept of intrinsic motivation focused on behaviors that are rewarding in themselves. However, as we will examine in this chapter it is possible that certain actions by the government might be seen as crowding out, alternative compliance motivations even if they are not strictly defined as intrinsic motivation. In other words, while not all non-instrumental motivation could be seen as intrinsic motivation, not all crowding out processes are indeed similar to that discussed in the original crowding out approach. In the following paragraphs we will spend some more time exploring the difference between internalized and non-coerced compliance, which will help build the theoretical framework needed to understand when does government interventions dangerous.

## Internalized vs. 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 according to the minimal definition includes every situation where the individual doesn’t feel he is coerced. . Hence in this chapter when we speak about crowding out we speak about 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 indeed likely to enhance it or undermine it.[[35]](#footnote-35) At the same time, because of the gap between voluntary and internalized compliance it could be the case that a certain regulatory intervention is likely to have a negative contribution to the process of internalization, while still contributing to the likelihood of voluntary compliance.

This might be related to the fact that the effect on likelihood of internalization is more long term and depends on other factors while perception of voluntariness is shorter termed. The next chapter we focus on broader accounts of regulation, will tackle the relationship between regulation and voluntary compliance as understood in non-coerced compliance rather than internalized compliance.

Furthermore, while for law to change peoples’ intrinsic motivation is seen as an integral component of voluntary compliance, as we discussed the first chapter, the meaning of what is voluntary could be explained in more than one way. There is a narrow definition which 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, which includes people who intrinsically want to cooperate, which seems to be the way to achieve sustainable voluntary compliance that doesn’t need continuous external intervention by the state is needed to be sustainablewhich basically includes every situation in which people are not subject to sanctions if they don’t comply. The rationale is that our focus is on the fear of “crowding out” effect of the law on intrinsic motivation, and this could only be discussed in the context of internalized compliance.

## Internalization (crowding in) vs. crowding out

Most of the discussion in this chapter will focus on two main processes we are interested in comparing, crowding out vs. preference change or internalization.

In abstract terms, one could envision a situation where the law should be able to target only those whose current intrinsic motivation is against the values of the state, and then the law would change their attitudes, without the risk of crowding out, since there is no intrinsic motivation, we are afraid to harm. However, clearly, this simplistic view is problematic on a few accounts. First, people’s level of intrinsic motivation is not truly dichotomous, they don’t either have it or not have it. Second, it is unclear how could the state know in advance how to target only people with intrinsic motivation. Third, even people with intrinsic motivation might need additional confirmation from the state and hence could not be assumed to have this intrinsic motivation at the place without state encouragement.

An alternative approach which will be developed in the last chapters of this book is related to identifying the context and the level of popularity a given law enjoys is limited and hence the likelihood that people will enjoy a high level of intrinsic motivation is 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 indeed 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, is more related to the institution than to the particular law and hence 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 perspective regarding crowding out is related not to the heterogeneity of intrinsic motivations but rather with regards to the difference between people, in the sense of an interaction with the personal initial motivation and examining the likelihood that they are driven by intrinsic motivations in their compliance motivations which were described in this chapter. For example, in a lab study that focused understanding the mechanisms behind the crowding out effect Kornhauser et al[[36]](#footnote-36) have conducted a lab study with few conditions that manipulated the fine paid for breaching a contract. They have identified a strong interaction between people who were high on SVO and people who were low on it. Demonstrating that mostly for people who are intrinsically committed to caring for others the payment of the fine if the external incentives negatively affected commitment to the contracts. This intuition which was shared by many others[[37]](#footnote-37) was demonstrated a in careful lab experiment. This suggests a challenge with the ability to incentivize some people while ignoring the others, which is a major part of what we are trying to deal with this book – what parts of the public could be trusted and for what types of compliance.

## Framing of incentives and crowding out motivations.

Another important question to answer is related to the how the extrinsic motivation is being perceived by the public whose behavior we are trying to change[[38]](#footnote-38). It is possible to demonstrate this fact 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 regardless, a subtle shift occurs. The focus transitions 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 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. For instance, a person volunteering at a homeless shelter out of genuine concern for others may continue 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.

The challenge to understand what the likelihood of a certain extrinsic motivation is becomes even harder when accounting for the fact that it is not just that people have either intrinsic motivation or not having it and their level of intrinsic motivation, would have an effect also on their interpretation of the extrinsic motivation, where we can also expect a difference when the intervention is targeting the individual rather than the public in general. When the policy is more general, it is of course less likely to 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 problematic to know in advance when intrinsically motivated individual will feel that the extrinsic motivation enhance his willingness to voluntarily cooperate with legal requirements as it recognizes the importance of doing so. Thus, for example, in the context of mask wearing, if one obey due to her 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, but rather the other way around as it might enhance the belief of people that there scientific understanding is in fact accurate and valid. In contrast if people cooperate as they want to feel that they are moral people who choose to help others, clearly, when become a legal requirement, the ability of people to feel that they are helping others is being reduced as they are forced to do so by law.

However, if they object to it, they might engage in some psychological reactance to it[[39]](#footnote-39). Volokh[[40]](#footnote-40), examines the good Samaritan laws and by showing that there is great variation in how people behave without the law he challenges the potential negative effect of the law. If there were only good or bad people that the law was be indifferent to good people and pushing bad people, but since there are at least five types of people this might cause some people to perform worse, especially because there are certain type of heroism the law could never expect people to do. another interesting results[[41]](#footnote-41) regarding crowding out is related also to how people self-perceive it. A classic example, for this confusion is the good Samaritan law, requires 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 research has started to examine now, how different nudges that either focus on social morals or simply a change in the default, have changed peoples’ intrinsic motivation. research by Grad and others[[42]](#footnote-42) didn’t see any reduction in pro-social motivation following any presentation of nudges. Let’s say one is being convinced to obey in a certain way, is it the case that they are more likely to abandon their understanding because of some extrinsic intervention of either mandatory or incentives?

It is possible to see a reduction in societal feeling of morality. In other words, if people are only motivated to do the right thing 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 get away with unethical behavior without consequences.

Also, the warm glow of being a responsible citizen is being reduced by extrinsic interventions, such as incentives or penalties, can reduce this feeling of being a responsible citizen, which can in turn affect people's intrinsic motivation to comply with laws and regulations. This may happen because people may perceive the extrinsic intervention as the main reason for their compliance, rather than their own sense of duty and responsibility as a citizen.

In contrast, if science tells us something about why to get the vaccine, to what extent the extrinsic intervention might undermine it. If anything, when science is being enacted as a law, it gives it a boost when it is being adopted by the state.

## Crowding Out the ability to signal virtue to Others

The payment for 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 that the behavior is based on[[43]](#footnote-43). This is related to the concept of social norms and signaling discussed in the book by 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. When extrinsic incentives are introduced, they can send a signal that the behavior is not actually a social norm, but rather something that is only done 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-44)

In a joint work with Orly Lobel[[45]](#footnote-45) on how incentives affect the intrinsic motivation of whistle-blower we examine how getting paid for blowing the whistle undermine the social status of a hero which only cares about fighting corruption. In another famous field experiment, taking a different approach by Cagala 2021[[46]](#footnote-46), it was shown that by using pledges in exams, students have actually cheated more presumably because they believed that others are probably cheating, if they have asked them to sign a pledge not to cheat. This is a different mechanism

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

In a joint work with Netta Barak-Koren and Shelli Robson, we have examined how intrinsic motivation might affect the likelihood that making the service mandatory might change the way the service looks. This is a classical dilemma of the crowding out discussion we hold here, where we try to understand whether forcing a certain community to enlist against their religious beliefs we might lose relative to a situation we are able to persuade that public. In that study which included three waves of studies on representative samples of the ultra-orthodox populations in Israel. Have exposed how complex is to understand whether an intervention will change what type of intrinsic motivation and what can be done when dealing with a large segment which doesn’t want to enlist. In that study we’ve examined the issue of military conscription to the Israel Defense Forces (IDF) from the perspective of the ultra-Orthodox (Haredi) community, particularly focusing on Haredi youth eligible for security service. Within this research framework, several critical aspects were explored in shaping a new conscription policy. We Investigated how Haredi youth perceive IDF conscription, their intrinsic motivations for or against enlistment, and the factors that sway their decisions. Analysing prevailing social norms within the Haredi community concerning military service. Understanding the social implications of conscription for Haredi soldiers, including aspects related to matchmaking and religious standing within the community. We have examind diverse motivations—personal, ideological, and normative—driving Haredi youth toward or away from IDF service. In that study we have created three consecutive studies yielded consistent findings regarding Haredi public perceptions and attitudes toward conscription: **Discrepancy Between Willingness and Actual Enlistment**: While approximately one in four Haredi youth expressed a desire to serve in the IDF, only 10% demonstrated actual readiness to do so. This gap persisted across all three studies, conducted using varying sampling methods and research designs. **Disparity Between Haredi Youth and Their Perception of Haredi Willingness**: Haredi youth perceived the overall Haredi willingness for conscription to be significantly lower than their personal inclination. Interestingly to our context, haredi youth exhibited varied motivations regarding IDF service, including personal convictions, ideological alignment, and normative considerations. Interestingly, no significant difference emerged between Haredi youth willing to enlist and those who were not, except in the weight assigned to these motivational systems. In summary, understanding the intricate interplay of these factors informs the complex decision-making process of Haredi youth regarding military conscription. With the existing of multiple motivations on one hand and the general resentment towards the conscription, using coercion becomes extremely complex.

## Punishment and Crowding Out

 Aside from the quality of performance, which is expected to be better according to the four non-calculative models, as discussed above, a wealth of research attacks the negative impact of punishment[[47]](#footnote-47) as well as the incentives. According to the “crowding out” theory, exposing people to external motivation (either positive or negative) undermines their internal motivation.[[48]](#footnote-48) Frey found that residents were more likely to oppose a nuclear plant in their neighborhood if they were offered compensation.[[49]](#footnote-49) Fehr and Falk (2002) show that using incentives could reduce the performance of agents as well as their compliance with various rules.[[50]](#footnote-50) Deci et al have conducted a meta-analysis of 128 studies examined the effects of extrinsic rewards on intrinsic motivation. The meta-analysis demonstrated the robust negative effect of reward 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-51) Tang and hall[[52]](#footnote-52) have taken a different approach in his meta-analysis focusing on the concept of over justification, albeit many of the same papers are dicusssed in both types of meta-analysis. Frey conducted few reviews of the literature focusing on the problems associated with incentives in agency relationship.[[53]](#footnote-53) Schulze & Frank[[54]](#footnote-54) demonstrated the crowding effect of deterrence and its destructive effect on the intrinsic motivation to behave honestly. Another important review article that takes a more economic than a psychological approach is that of Bowles and Polanía-Reyes[[55]](#footnote-55) in the context of pro-social behavior, showing the contexts in which economic incentives might be counterproductive and have adverse effect. They also find few alternative explanations for why such effect might happen by reasons unrelated to the classical crowding out effect such as framing and lack of internalization. At the same time, it is important to other studies have attempted to understand the mechanism through which people are intrinsically motivated to cooperate in culture rather than individual behavior, noticeably finding no variation within groups associated with individual’s[[56]](#footnote-56) characteristics.[[57]](#footnote-57)

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

Another mechanism of crowding out is related to redefining the relationship between people, mostly when money transform them into market relationships. In behavioral economics literature the famous highly cited “fine is a price” mechanism became the parallel for the psychological research of crowding out effect. documented in the context of daycare centers that assessed fines upon parents who were late in picking up their children at the end of the day.[[58]](#footnote-58) Imposing a fine on late parents was found to be counterproductive, resulting in an increased number of late pickups. Apparently, the fine led parents to feel licensed to arrive late. In another study on the potentially disruptive effect of laws, a related theory in the context of pro-social behaviors suggests that both rewards and punishments were shown to trigger an over justification effect, where the fact that external rewards were present were likely to cause people to question whether "true motivation" was present.[[59]](#footnote-59) This effect is more likely to occur when not done in public rather than in private.[[60]](#footnote-60)

## Expressive law vs. crowding out

An important conceptual and somewhat contradictory approach that is crucial for this whole project on voluntary compliance is to compare the behavioral effect associated with incentives, which have been part of the classical crowding out research, and the mandatory effect which is in many ways more coercive but in many others might seem less likely to completely shift the focus from thinking about the individual and thinking about why to do it.

In a joint experimental work with Tom Tyler, we have explored the contradiction between the ability of the law to be expressive and enhances social practices and the ability of the law to crowd out motivation by mandating a voluntary act.

In expressive direction, people still can choose not to behave as the law. For the most part the effect of the expressive direction is an effect on attitudes. However, when speaking about the crowding out, usually the focus is on how it is affecting people’s choices and rarely on attempting to change the effect of the law on attitudes.

**We have contrasted between two possible conflicting effects of law on behavior.**

**On one hand we have argued that** if legal requirements “crowd out” the influence of social norms, their overall effect on employee behavior will undermine the important role of voluntary adherence to social norms in shaping compliance.[[61]](#footnote-61) 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-62) 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 consequently will have no reason to act on behalf of employees, as they will receive no credit for such behavior.[[63]](#footnote-63)

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, and it is important to consider how legal requirements might be perceived by individuals and organizations to minimize any negative effects on voluntary adherence to social norms. 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 used adresses the question of whether and how legal authorities ought to intervene in work organizations to most effectively regulate the behavior of employees. This question is examined empirically, by exploring whether the association between the level of fairness employees experience in procedures regarding pay and benefits, and if their adherence to workplace rules differs depending upon whether those procedures are enacted by companies voluntarily or mandated by law. This question was addressed using both a survey of a representative sample of employees in Israel, as well as their reactions to an experimental vignette. The results generally suggest that evaluations of the procedural justice of performance appraisal hearings more strongly influenced judgments of overall workplace fairness, perceptions of management legitimacy, and employee rule-adherence behavior when employees believed fairer workplace procedures were required by law.

Interestingly, our findings have actually demonstrated a third effect in line with the expressive function direction which we associated with entitlement. It was shown that once a social practice become a legal norm it has caused people

## Crowding out, fairness and lack of trust

In the list we have examined above, we have focus also on the crowding out mechanism of the signaling of mistrust associated with imposing law. For example, Falk and Kosfeld (2004) have demonstrated experimentally that when a principal signals distrust to an agent, the agent's performance is reduced. In contrast, for example, Frey and Feld have argued a similar argument but from the reverse direction in the context of tax compliance.[[64]](#footnote-64) 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, Stout and Blair[[65]](#footnote-65) have demonstrated the inadvertent effect of regulation and monitoring on the behavior of the executive, which exists in current corporate law.[[66]](#footnote-66) They suggest that the mistrust signaled through harsh regulation serves as a self-fulfilling prophecy. A policy that threatens people overlooks the possibility that threatened punishment is perceived as a signal that noncompliance is widespread.[[67]](#footnote-67)

## Reactance theory as an alternative mechanism to crowding out

An alternative approach to the potential effect of regulation, especially a restrictive one on the behavior of people, comes from the reactance theory. According to reactance theory, people resist restrictions thus suggesting a negative effect of law on behavior. Interestingly, in an interaction with the concept of perceived legitimacy, it was shown that both legitimate and non-legitimate created a reactance, but the difference was in the type of mechanism employed against it. Concerning the illegitimate intervention reactance was immediate, regarding the legitimate one, longer cognitive deliberation was evident.[[68]](#footnote-68) An example to that comes from a joint work with Barak-Coren & Gidron,[[69]](#footnote-69) we developed the concept of inexpressive law, where the national law causes left-wing individuals to experience a feeling of reaction, they’ve tailored towards greater support for anti-discrimination law. It is important to note that in that context the focused was reversed to the classical crowding out as the law was in the right direction with the intrinsic believes of the right in Israel but with the opposite direction with the intrinsic believes of the left in Israel. This polarized effect in itself demonstrates some complexity with it comes to the prediction

In our study, we investigated the expressive effects of majority nationalism laws on patterns of minority discrimination, using 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 in recent decades, aiming to protect the cultural heritage of the majority by defending the local dominant culture. Drawing 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 majority nationalism laws 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 lies in the backlash reaction provoked by majority nationalism laws among those who oppose them. We introduce the term "provocative effect of law" to describe this phenomenon and discuss its implications in relation to expressive law theory. Our results suggest that the impact of majority nationalism laws may systematically vary across ideological groups and different spheres of discrimination.

According to the broader approach of changing people’s intrinsic motivation by legal intervention, when the law does not align with the intrinsic motivation of a target group, it might lead to a backlash, providing another theoretical route to understand the complexity of predicting whether the law will construct or destroy intrinsic motivation. This finding highlights the importance of considering the diverse reactions to legal interventions and their potential unintended consequences when addressing issues related to minority discrimination and social cohesion in increasingly diverse societies.

Crowding out by giving alternative reasons?

Zamir et al [[70]](#footnote-70) 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 the provision of information about the underlying reasons behind legal norms as a means to enhance compliance, primarily through deliberative System 2 thinking. Although the concept of accompanying legal norms with explanatory preambles dates back to Plato, this technique is rarely employed today, and scholars have largely overlooked its potential.

They argue that reason giving can significantly enhance compliance while reducing reliance on costly enforcement mechanisms. The theoretical framework comprises three key components:

1. **Mechanisms of Influence**: They describe how reasons may impact people’s behavior.
2. **Reason Giving for Compliance**: They differentiate between reason giving as a tool to enhance compliance and its use for other purposes.
3. **Policy Considerations**: They discuss pragmatic factors relevant to employing reason giving.

Following the theoretical exploration, the empirical investigation employs vignette studies to demonstrate the feasibility and efficacy of the reason-giving technique. Their findings reveal that providing sound reasons for legal norms increases people’s inclination to comply, compared to situations where reasons are not provided. However, it’s essential to note that while persuasive reasons bolster compliance, 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 given that if reasons are not convincing enough people might not believe the law. Thus, theoretically one can envision a situation, where people are already intrinsically motivated to obey a certain law for some rationale and then a different rationale provided for the act, might crowd their original intrinsic motivation. naturally to understand such effect further experimentation is needed but clearly the same rational associated with an external motivation to the original motivation of the person which is being introduced could have an effect at least according to some of the mechanisms of the crowding out literature.

## Sanctions that Enhance Morality

To make the picture even more complex, some research suggests that not only do sanctions not crowd our morality, but they could potentially increase our perception of the immorality of the act.[[71]](#footnote-71) In a series of 3 experiments, they examined the influence of sanction severity and showed that severe sanctions evoke stronger moral judgments with regard to rule-breaking behavior and stronger social disapproval towards rule-breakers than mild sanctions. Interestingly, there was some moderation in the level of trust in institutions.

These findings while being interesting, are limited on a few accounts.

First, the dependency on trust in authorities might see the strong sanction as a credible signal. Second, as we discussed above, there is an open question to what extent we can view morality as 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 they believed in the actual law, it would have been measured differently.

## Fairness of the Law as Affecting the Likelihood of Crowding Out

Braithwaite & Makkai[[72]](#footnote-72)in a famous study, argue that when nursing home managers have felt that they were treated fairly, they were more likely to comply. This famous study supposedly, answers the main question of this book, how to get to voluntary compliance and what is the best way to maintain it. The main problem with the study is that the managers who felt that they were trustworthy, might be true for the managers who were worthy of the trust of regulators. This doesn’t solve the dilemma of regulators when they need to decide what is the best approach, given the lack of information about the integrity and the trustworthiness of the particular entity the regulator is interested in regulating.

In a 20-year-old study, Gunningham [[73]](#footnote-73) examines what happens when inspectors, focused on the more intrinsically oriented ’advise and persuade’ approach switched to the more extrinsically oriented deterrence based approach, because of some disaster that happens and a public demand for tougher approach. They find through that this change in approach has led to problematic consequences and the decline of trust has led to a decline in the regulatory effectiveness. Heimer and Gazley[[74]](#footnote-74) also highlight the importance of meaningful interaction between inspectors and regulatees to enhance information gathering and improve compliance.

## Pareto Self-Improvement and the Efficacy of Changing Intrinsic Motivation

Cooter has been working on the notion of “pareto self improvement” that people have to be authentic to be able to behave in an authentic and systematic way[[75]](#footnote-75).Cooter suggests a second, more instrumental mechanism, by which the law might utilize high-order preferences to change undesirable low-order preferences.[[76]](#footnote-76) Cooter posits that people can improve their social standing by being perceived as virtuous. Thus, to satisfy high-order preferences for elevated social status, people might change their low-order ethical preferences, in order to appear moral to others,[[77]](#footnote-77) in a process Cooter terms “Pareto self-improvement.”[[78]](#footnote-78) Of course, this mechanism will only truly improve ethicality if people cannot falsely present themselves as virtuous, or at least if this is costly to accomplish.[[79]](#footnote-79) Thus, 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-80) Therefore, close social groups, in which people’s true morality is observable, are instrumental in improving ethical preferences.[[81]](#footnote-81) Piggybacking on these social mechanisms, the state can then improve compliance with the law by enacting laws that have moral flavors. That is if people care to appear moral to others, and if the law is equated (at least somewhat) with morality, people will wish to appear lawful and will change their preferences accordingly.[[82]](#footnote-82)

We must ask ourselves are sanctions threaten this process. Are sanctions harming the likelihood of cognitive dissonance happening, causing people not to think about the reasons why they want to obey the law? What about repetition? How do we explain the fact that we have probably internalized the need to put on a seat belt simply through habit formation? is internalizing through repetition different? The law that prevented sexual harassment used sanctions from the beginning but led to a change in how sexual harassment is being viewed. This is all related to the previous discussion on the contradiction between the expressive function of the law and the crowding out effect.

As could be seen from the described mechanism by Cooter to preference change - Pareto Self-Improvement - this paradigm adopts the perspective of rational choice,[[83]](#footnote-83) according to which people choose to change their preferences as a logical response to new information or new social opportunities.[[84]](#footnote-84) More importantly, according to Cooter’s paradigm, once preferences change and an individual acquires. For example, in a stronger “taste for fairness,” the assumption is that this taste is being adopted with full awareness and immediately translates to behavior.[[85]](#footnote-85)

## Is changing intrinsic Motivation Needed for a Sustainable Behavioral Change?

When discussing the effect of either incentives or regulation on intrinsic motivation, another important aspect that needs to be considered is whether, for behavior to change over time, intrinsic motivation needs to be changed.

Cooter’s argument about Pareto’s self-improvement, has assumed that for behavioral change to be sustainable, intrinsic motivation needs to be changed.

This argument, however, ignores the 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 in line with their values, but this doesn’t seem to be the case when looking for studies on behavioral change, which view habit formation as a more sustainable approach.

For example, in the research on behavioral change through habit formation of scholars such as Milkman and others. These approaches are seen as the best approach for a stable behavioral change that could withstand various external counter effects. Another approach referred to in the work of Lewinson Zamir on internalization is the classical effect of cognitive dissonance, where behavioral change precedes internal change. According to this approach, an internal change is more likely to happen without strong external pressure. This effect has led Lewinson Zamir to argue that in many ways a command-and-control sanctions-based approach is actually less likely to lead to an internal change, thus making these approaches less intrusive and problematic from that regard. Interestingly, the assumption is that an internal change is problematic from a rule of law perspective and this approach will be discussed in chapter 11 which focuses on normative implications.

## Other Forms of Attitude Change Mechanism

In addition, to habit formation literature, attitude change models[[86]](#footnote-86) also suggest a mixed picture. where according to many studies[[87]](#footnote-87) it is hard to identify one process through which such change happens[[88]](#footnote-88) thus undermining some of the original models of persuasion and attitude change that attempted to differentiate how different attributes of messages (e.g. quality of argument vs. source of message).[[89]](#footnote-89)

## What Regulatory Factors are More Likely to Change Your Preferences?

Thus, if sanction is not necessarily the only way through which, the law crowds out motivation, we need to understand what other factors might explain this potential effect.

In the next paragraphs, that start to uncover the regulatory toolbox choices, we will examine which regulatory aspects will have a stronger effect on behavior. A related question is what regulatory instrument a positive effect on people’s intrinsic motivation will have (possibly referring to as preference change in economic terminology), and in what regulatory instrument there will be a negative effect on people’s intrinsic motivation (usually referred to in law and behavioral economics as crowding out motivation).

In the following paragraphs, we will develop some of these arguments Kaplan and I made, in more detail.

## Is There a Regulatory Instrument That is Best Suited to Change Preferences?

Isn’t it the case that, as we showed in the previous chapter, each regulatory instrument has more than one dimension and hence it is very hard to argue that a certain legal tool is preferable to others when it comes to preference change?

Traditionally the assumption is that giving an explanation to people with regards to compliance, is best when it comes to preference change but so much research challenge the connection between what people believe in and what people actually do, thus challenging whether indeed preference change is the best way to get

In a sense, the approach we advocate is that preference change is a desired goal but 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 such a good way?

The nudge plus approach[[90]](#footnote-90) adds a deliberative component aimed at promoting deeper understanding and motivation for behavior change. For example, it adds deliberation, but is not suggesting to do so because of any empirical basis that suggests that doing so is likely to lead to an increase in an important behavioral component of democracy of 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 launch a campaign to encourage citizens to eat more fruits and vegetables by providing information on the health benefits of such a diet, while also making 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. Thus the nudge plus approach combines nudges with education and information to encourage a positive change 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, which is that people will behave more ethically if their preference will be become more ethical. This axiom is what underlies much of the attempt to change people’s preference. It is impossible to argue against the greater good that comes to the world with more people with ethical preferences. However, we’ve argued that to a large extent, ethical preferences are far from guaranteeing ethical behavior, relative to what we argue is of greater importance – the design of the situation in which people operate. The argument in short is that even people with a preference for high ethicality could end up behaving unethically.

Works in cognitive and social psychology, as well as studies in behavioral ethics and behavioral economics, suggest that the internal-consistency assumption is an over-simplification 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-91) That is possible for a person to hold an explicit preference for one state of affairs, yet systematically make choices that seem to contradict this preference.[[92]](#footnote-92) 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-93) Similarly, people can hold a preference towards helping others, yet behave egoistically when their choices originate with semi-deliberative cognitive processes.[[94]](#footnote-94) This could also happen due to self-deception mechanisms, where they might misinterpret their own actions, viewing them as helping when they are in fact egoistic.[[95]](#footnote-95) In this sense, preferences are not monolithic, but fragmented, as people behave in ways that indicate the existence of fractions or inconsistencies in their preferences even within one time period. This insight also relates to the literature on situational wrongdoing, pointing out the effects of minor situational alterations on people’s levels of moral commitment.[[96]](#footnote-96)

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

Please don’t edit from here down

##  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**

.

References

P

1. Hennessey, Beth, et al. "Extrinsic and intrinsic motivation." *Wiley Encyclopedia Of Management* (2015): 1-4. [↑](#footnote-ref-1)
2. See the feldman the complexity of disentangling intrinsic and extrinsic compliance motivations ?? [↑](#footnote-ref-2)
3. Cooter, Robert. "Do Good Laws Make Good Citizens? An Economic Analysis of Internalized Norms." *Virginia Law Review,* 2000, pp. 1577-1601. [↑](#footnote-ref-3)
4. Levi, Margaret, Tom R. Tyler, and Audrey Sacks. "The Reasons for Compliance with Law." *Understanding Social Action, Promoting Human Rights*, 2012, pp. 70-99. [↑](#footnote-ref-4)
5. Kollmuss, Anja, and Julian Agyeman. "Mind the gap: why do people act environmentally and what are the barriers to pro-environmental behavior?." *Environmental education research* 8.3 (2002): 239-260. [↑](#footnote-ref-5)
6. Pelletier, Luc G., et al. "Why are you doing things for the environment? The motivation toward the environment scale (mtes) 1." *Journal of applied social psychology* 28.5 (1998): 437-468. [↑](#footnote-ref-6)
7. Frey, Bruno S., and Benno Torgler. "Tax morale and conditional cooperation." *Journal of comparative economics* 35.1 (2007): 136-159. [↑](#footnote-ref-7)
8. Later on approaches such as that of responsive regulation will be discussed which basically suggest to take a consecutive approach to the different regulatory styles (compare with Feldman, Yuval. *The Law of Good People: Challenging States' Ability to Regulate Human Behavior,* chapter 11. Cambridge: Cambridge UP, 2018. Print.) [↑](#footnote-ref-8)
9. Frey, Bruno S., and Felix Oberholzer-Gee. "The cost of price incentives: An empirical analysis of motivation crowding-out." *The American economic review*, vol. 87.4, 1997, pp. 746-755.‏ [↑](#footnote-ref-9)
10. Lafitte, François. "Richard M. Titmuss, The Gift Relationship: From Human Blood to Social Policy, Allen and Unwin, London, 1970." *Journal of Social Policy,* vol. 1.1, 1972, pp. 81-84.‏ [↑](#footnote-ref-10)
11. (The bad man of Holmes) (Holmes, 1897) [↑](#footnote-ref-11)
12. Compare with Levinson, Zamir. (2015) “The Importance of Being Earnst.” *University of Toronto Law Journal,* 2015. SSRN, https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2450445. [↑](#footnote-ref-12)
13. Slemrod, Joel. "Tax compliance and enforcement." *Journal of Economic Literature* 57.4 (2019): 904-954. [↑](#footnote-ref-13)
14. Scholz, J. T., & Pinney, N. (1995). Duty, fear, and tax compliance: The heuristic basis of citizenship behavior. *American Journal of Political Science*, 490-512. [↑](#footnote-ref-14)
15. Kirchler, Erich, Christoph Kogler, and Stephan Muehlbacher. "Cooperative tax compliance: From deterrence to deference." *Current Directions in Psychological Science* 23.2 (2014): 87-92. [↑](#footnote-ref-15)
16. Kirchler, Erich, Erik Hoelzl, and Ingrid Wahl. "Enforced versus voluntary tax compliance: The “slippery slope” framework." *Journal of Economic psychology* 29.2 (2008): 210-225. [↑](#footnote-ref-16)
17. Liekefett, Luisa, and Julia Becker. "Compliance with governmental restrictions during the coronavirus pandemic: A matter of personal self‐protection or solidarity with people in risk groups?." *British Journal of Social Psychology* 60.3 (2021): 924-946. [↑](#footnote-ref-17)
18. Algan, Yann, et al. "Trust in scientists in times of pandemic: Panel evidence from 12 countries." *Proceedings of the National Academy of Sciences* 118.40 (2021): e2108576118. [↑](#footnote-ref-18)
19. See for example Feldman, Yuval. "The expressive function of trade secret law: Legality, cost, intrinsic motivation, and consensus." *Journal of Empirical Legal Studies* 6.1 (2009): 177-212. [↑](#footnote-ref-19)
20. Lepper, Mark R., and David Greene. "Overjustification research and beyond: Toward a means—ends analysis of intrinsic and extrinsic motivation." *The hidden costs of reward*. Psychology Press, 2015. 109-148. [↑](#footnote-ref-20)
21. Smith, Timothy W., and Thane S. Pittman. "Reward, distraction, and the overjustification effect." *Journal of Personality and Social Psychology* 36.5 (1978): 565. [↑](#footnote-ref-21)
22. Chao, Matthew. "Demotivating incentives and motivation crowding out in charitable giving." *Proceedings of the National Academy of Sciences* 114.28 (2017): 7301-7306. [↑](#footnote-ref-22)
23. Falk, Armin, and Michael Kosfeld. "The hidden costs of control." *American Economic Review* 96.5 (2006): 1611-1630. “ control partly **crowds** **out** agents’ motivation” [↑](#footnote-ref-23)
24. Gråd, Erik, Arvid Erlandsson, and Gustav Tinghög. "Do nudges crowd out prosocial behavior?." *Behavioural Public Policy* 8.1 (2024): 107-120. [↑](#footnote-ref-24)
25. Elliot, Andrew J., and Patricia G. Devine. "On the motivational nature of cognitive dissonance: Dissonance as psychological discomfort." *Journal of personality and social psychology* 67.3 (1994): 382. See also Daphan levinson Zamir paper on preference change [↑](#footnote-ref-25)
26. Frey, Bruno S. "Institutions and morale: The crowding-out effect." *FRONTIER ISSUES IN ECONOMIC THOUGHT* 3 (1997): 223-226. [↑](#footnote-ref-26)
27. Feldman, Yuval, and Orly Lobel. "The incentives matrix: The comparative effectiveness of rewards, liabilities, duties, and protections for reporting illegality." *Tex. L. Rev.* 88 (2009): 1151. [↑](#footnote-ref-27)
28. Markowitz, Pe’er Feldman pleadges affidavits [↑](#footnote-ref-28)
29. Herd, Pamela, and Donald P. Moynihan. *Administrative burden: Policymaking by other means*. Russell Sage Foundation, 2019. [↑](#footnote-ref-29)
30. Brehm, Sharon S., and Jack W. Brehm. *Psychological reactance: A theory of freedom and control*. Academic Press, 2013. [↑](#footnote-ref-30)
31. Barak‐Corren, Netta, Yuval Feldman, and Noam Gidron. "The provocative effect of law: Majority nationalism and minority discrimination." *Journal of Empirical Legal Studies* 15.4 (2018): 951-986. [↑](#footnote-ref-31)
32. Gneezy, Uri, and Aldo Rustichini. "A fine is a price." *The journal of legal studies* 29.1 (2000): 1-17. [↑](#footnote-ref-32)
33. Compare for example with Fiske, Alan P. "The four elementary forms of sociality: framework for a unified theory of social relations." *Psychological review* 99.4 (1992): 689. [↑](#footnote-ref-33)
34. Zapata-Phelan, Cindy P., et al. "Procedural Justice, Interactional Justice, and Task Performance: The Mediating Role of Intrinsic Motivation." *Organizational Behavior and Human Decision Processes,* vol. 108.1, 2009, pp. 93-105. [↑](#footnote-ref-34)
35. Lewinsohn-Zamir, Daphna. "The Importance of Being Earnest: Two Notions Of Internalization." University of Toronto Law Journal, vol. 65 no. 2, 2015, p. 37-84. Project MUSE [muse.jhu.edu/article/578400](https://muse.jhu.edu/article/578400). [↑](#footnote-ref-35)
36. Kornhauser, Lewis, Yijia Lu, and Stephan Tontrup. "Testing a Fine is a Price in the Lab." *International Review of Law and Economics*, vol 63, 2020. [↑](#footnote-ref-36)
37. Feldman, Yuval and Doron Teichman. “Are All ‘Legal Dollars’ Created Equal?” *Northwestern University Law Review*, vol. 102, no.1, 2008., [↑](#footnote-ref-37)
38. Gneezy, Uri, Stephan Meier, and Pedro Rey-Biel. "When and why incentives (don't) work to modify behavior." *Journal of economic perspectives* 25.4 (2011): 191-210.‏ [↑](#footnote-ref-38)
39. Brehm, Sharon S., and Jack W. Brehm. *Psychological reactance: A theory of freedom and control*. Academic Press, 2013. [↑](#footnote-ref-39)
40. Volokh, Eugene. “Duties to the Rescue and the Anticooperative Effects of Law.” *Georgetown Law Journal*, vol. 88, April 1999. SSRN https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=158594. [↑](#footnote-ref-40)
41. Lin, Stephanie C., Julian J. Zlatev, and Dale T. Miller. "Moral Traps: When Self-serving Attributions Backfire in Prosocial Behavior." Journal of Experimental Social Psychology, vol. 70, 2017, pp. 198-203. [↑](#footnote-ref-41)
42. Gråd, Erik, Arvid Erlandsson, and Gustav Tinghög. "Do Nudges Crowd Out Prosocial Behavior?” *Behavioural Public Policy*, 2021, pp. 1-14.‏ [↑](#footnote-ref-42)
43. Cagala, Tobias, Ulrich Glogowsky, and Johannes Rincke. "Does Commitment to a No-Cheating Rule Affect Academic Cheating?." *Available at SSRN 3111855* (2019). [↑](#footnote-ref-43)
44. Posner, Eric A. *Law and Social Norms.* Harvard University Press, 2000. [↑](#footnote-ref-44)
45. Feldman, Yuval, and Orly Lobel. "The incentives matrix: The comparative effectiveness of rewards, liabilities, duties, and protections for reporting illegality." *Tex. L. Rev.* 88 (2009): 1151. [↑](#footnote-ref-45)
46. Cagala, Tobias, Ulrich Glogowsky, and Johannes Rincke. "Detecting and preventing cheating in exams: Evidence from a field experiment." *Journal of Human Resources* (2021). [↑](#footnote-ref-46)
47. Allen et al, 1981 [↑](#footnote-ref-47)
48. Deci, Edward L. "Effects of Externally Mediated Rewards on Intrinsic Motivation." Journal of Personality and Social Psychology, vol. 18.1, 1971, pp. 105; Frey, Bruno S., and Reto Jegen. "Motivation Crowding Theory: A Survey of Empirical Evidence, Revised Version." *Working Paper Series/Institute for Empirical Research in Economics,* vol. 49, 2000.‏ [↑](#footnote-ref-48)
49. Frey, Bruno S. "Institutions and Morale: The Crowding-Out Effect." *FRONTIER ISSUES IN ECONOMIC THOUGHT*, vol. 3, 1997, pp. 223-226.‏ [↑](#footnote-ref-49)
50. Fehr, Ernst, and Armin Falk. "Psychological Foundations of Incentives." *European Economic Review,* vol. 46.4-5, 2002, pp. 687-724.‏ [↑](#footnote-ref-50)
51. Deci, Edward L., Richard Koestner, and Richard M. Ryan. "A Meta-Analytic Review of Experiments Examining the Effects of Extrinsic Rewards on Intrinsic Motivation." *Psychological Bulletin,* vol*.* 125.6, 1999, pp. 627.‏ **For a focus on joint effects of extrinsic and intrinsic motivation see**: Cerasoli, Christopher P., Jessica M. Nicklin, and Michael T. Ford. "Intrinsic Motivation and Extrinsic Incentives Jointly Predict Performance: A 40-year Meta-Analysis." *Psychological Bulletin,* vol. 140.4, 2014, pp. 980.‏ For a discussion of the crowding out effect in the context of environmental policy:‏ Rode, Julian, Erik Gómez-Baggethun, and Torsten Krause. "Motivation Crowding by Economic Incentives in Conservation Policy: A Review of the Empirical Evidence." *Ecological Economics,* vol. 117, 2015, pp. 270-282.‏ For a discussion of the crowding effect, albeit with some reservation on the consistency of their effect, see: Promberger, Marianne, and Theresa M. Marteau. “When Do Financial Incentives Reduce Intrinsic Motivation? Comparing Behaviors Studied in Psychological and Economic Literatures." *Health Psychology,* vol. 32.9, 2013, pp. 950.‏ [↑](#footnote-ref-51)
52. Tang, Shu‐Hua, and Vernon C. Hall. "The Overjustification Effect: A Meta‐Analysis." *Applied Cognitive Psychology,* vol. 9.5, 1995, pp. 365-404.‏ [↑](#footnote-ref-52)
53. Frey, Bruno S. "On the Relationship Between Intrinsic and Extrinsic Work Motivation." *International Journal of Industrial Organization*, vol. 4.15, 1997, pp. 427-439. [↑](#footnote-ref-53)
54. Schulze, Günther G., and Björn Frank. "Deterrence Versus Intrinsic Motivation: Experimental Evidence on the Determinants of Corruptibility." *Economics of Governance*, vol. 4.2, 2003, pp. 143-160.‏ [↑](#footnote-ref-54)
55. Bowles, Samuel, and Sandra Polania-Reyes. "Economic Incentives and Social Preferences: Substitutes or Complements? " *Journal of Economic Literature*, vol. 50.2, 2012, pp. 368-425.‏ [↑](#footnote-ref-55)
56. Listokin, Y., & Schizer, D. M. “I Like to Pay Taxes: Taxpayer Support for Government Spending and the Efficiency of the Tax System.” *Tax Law Review*, vol. 66, 2012, pp. 179-215. [↑](#footnote-ref-56)
57. Henrich, J., R. Boyd, S. Bowles, C. Camerer, E. Fehr, H. Gintis, & R. McElreath. “Cooperation, Reciprocity and Punishment in Fifteen Small-Scale Societies.” *American Economic Review*, vol. 91, 2001, pp. 73-78.‏ [↑](#footnote-ref-57)
58. Gneezy, Uri, and Aldo Rustichini. "Pay Enough or Don't Pay at All." *The Quarterly Journal of Economics*, vol. 115.3, 2000, pp. 791-810.‏ [↑](#footnote-ref-58)
59. Bénabou, Roland, and Jean Tirole. "Incentives and Prosocial Behavior." *American Economic Review*, vol. 96.5, 2006, pp. 1652-1678.‏ [↑](#footnote-ref-59)
60. Ariely, Dan, Anat Bracha, and Stephan Meier. "Doing Good or Doing Well? Image Motivation and Monetary Incentives in Behaving Prosocially." *Image Motivation and Monetary Incentives in Behaving Prosocially*, August 2007. [↑](#footnote-ref-60)
61. e.g. Frey 1998; Kagan et al. 2003 [↑](#footnote-ref-61)
62. Cohen (1991) [↑](#footnote-ref-62)
63. Blair, Margaret M., and Lynn A. Stout. "Director Accountability and the Mediating Role of the Corporate Board." *Washington University Law Quarterly,* vol. 79, no. 2, 2001, pp. 403.‏ [↑](#footnote-ref-63)
64. Feld, Lars P., and Bruno S. Frey. "Trust Breeds Trust: How Taxpayers are Treated." *Economics of Governance*, vol. 3.2, 2002, pp. 87-99. [↑](#footnote-ref-64)
65. Blair, Margaret M., and Lynn A. Stout. "Trust, Trustworthiness, and the Behavioral Foundations of Corporate Law." *University of Pennsylvania L. Rev., vol.* 149, 2000, pp. 1735. [↑](#footnote-ref-65)
66. Blair, Margaret M., and Lynn A. Stout. "Director Accountability and the Mediating Role of the Corporate Board." *Washington University Law Quarterly, vol.*  79, 2001, pp. 403.‏ [↑](#footnote-ref-66)
67. Depoorter, Ben, and Sven Vanneste. "Norms and Enforcement: The Case Against Copyright Litigation." *Or. L. Rev.*, vol. 84, 2005, pp. 1127.‏ [↑](#footnote-ref-67)
68. Sittenthaler, Sandra, Christina Steindl, and Eva Jonas. "Legitimate vs. Illegitimate Restrictions–A Motivational and Physiological Approach Investigating Reactance Processes." *Frontiers in Psychology,* vol. 6, 2015, pp. 632.‏ [↑](#footnote-ref-68)
69. Barak‐Corren, Netta, Yuval Feldman, and Noam Gidron. "The Provocative Effect of Law: Majority Nationalism and Minority Discrimination." *Journal of Empirical Legal Studies*, vol. 15.4, 2018, pp. 951-986. [↑](#footnote-ref-69)
70. Lewinsohn-Zamir, Daphna, Eyal Zamir, and Ori Katz. "Giving reasons as a means to enhance compliance with legal norms." *University of Toronto Law Journal* 72.3 (2022): 316-355. [↑](#footnote-ref-70)
71. Mulder, Laetitia B., Peter Verboon, and David De Cremer. "Sanctions and Moral Judgments: The Moderating Effect of Sanction Severity and Trust in Authorities." *European Journal of Social Psychology*, vol. 39.2, 2009, pp. 255-269.‏ [↑](#footnote-ref-71)
72. Braithwaite, John, et al. "ROBERT REINER RESEARCH & POLICY." (1994).‏ [↑](#footnote-ref-72)
73. Gunningham, Neil, and Darren Sinclair. "Organizational Trust and the Limits of Management‐Based Regulation." *Law & Society Review*, vol. 43.4, 2009, pp. 865-900.‏ [↑](#footnote-ref-73)
74. Heimer, Carol A., and J. Lynn Gazley. "Performing Regulation: Transcending Regulatory Ritualism in HIV Clinics." *Law & Society Review*, vol. 46.4, 2012, pp. 853-887.‏ [↑](#footnote-ref-74)
75. Cooter, Robert. "Expressive law and economics." *The Journal of Legal Studies* 27.S2 (1998): 585-607. [↑](#footnote-ref-75)
76. Cooter, *supra* note **Error! Bookmark not defined.**, at 1581. [↑](#footnote-ref-76)
77. *Id.* at 1594. [↑](#footnote-ref-77)
78. *Id.* at1581. [↑](#footnote-ref-78)
79. For a critical discussion of this assumption, *see* Robert, E. Scott, “The Limits of Behavioral Theories of Law and Social Norms.” *Va. L. Rev.,* vol. 86, 2000, pp. 1603. [↑](#footnote-ref-79)
80. Cooter, *supra* note **Error! Bookmark not defined.**, at 1597. [↑](#footnote-ref-80)
81. *Id.* [↑](#footnote-ref-81)
82. *Id.*, at 1598; Similar arguments are advanced by Paul Robinson and John Darley, who argue that legal rules are more effective when they converge with conventional morality: Paul H. Robinson & John M. Darley, “The Utility of Desert”, Nw. U. L. Rev, vol 91, 1997, pp. 453. *See also* Tom R. Tyler, Why People Obey the Law, 1990, pp. 65; Lawrence Lessig, *The New Chicago School*, J. Legal Stud, vol. 27, 1998, pp. 661; Lawrence Lessig, *The Regulation of Social Meaning*, U. Chi. L. Rev. vol. 62, 1995, pp. 943, 964-73; Lawrence Lessig, *Social Meaning and Social Norms*, U. Pa. L. Rev. vol. 144, 1996, pp. 2181. [↑](#footnote-ref-82)
83. Cooter, *supra* note **Error! Bookmark not defined.**, at 903. [↑](#footnote-ref-83)
84. Cooter, *supra* note **Error! Bookmark not defined.**, at 1581. [↑](#footnote-ref-84)
85. *Id.* at 1587-9. [↑](#footnote-ref-85)
86. Petty, Richard E., and Pablo Brinol. "Attitude Change." 2010. [↑](#footnote-ref-86)
87. Kruglanski, Arie W., and Erik P. Thompson. "Persuasion by a Single Route: A View from the Unimodel." *Psychological Inquiry*, vol. 10.2, 1999, pp. 83-109. [↑](#footnote-ref-87)
88. Petty, Richard E., S. Christian Wheeler, and George Y. Bizer. "Is There One Persuasion Process or More? Lumping Versus Splitting in Attitude Change Theories." *Psychological Inquiry*, vol. 10.2, 1999, pp. 156-163. [↑](#footnote-ref-88)
89. Briñol, Pablo, and Richard E. Petty. "A History of Attitudes and Persuasion Research." 2012. [↑](#footnote-ref-89)
90. Banerjee, Sanchayan, and Peter John. “Nudge plus: incorporating reflection into behavioral public policy.” *Behavioral Public Policy* 8.1 (2024): 69-84. [↑](#footnote-ref-90)
91. Haidt, Jonathan. "The Emotional Dog and its Rational Tail: A Social Intuitionist Approach to Moral Judgment." *Psychological Review*, vol.108.4, 2001, pp. 814.‏ (arguing that moral reasoning is typically the result of quick, automatic evaluation and that rational justifications are only made after the fact).

 Kahneman, Daniel. *Thinking, Fast and Slow*. Macmillan, 2011.‏ [↑](#footnote-ref-91)
92. Kahneman, Daniel. *Thinking, Fast and Slow*. Macmillan, 2011.‏ [↑](#footnote-ref-92)
93. Feldman, Yuval. *The Law of Good People: Challenging States' Ability to Regulate Human Behavior*. Cambridge University Press, 2018.‏ (“various psychological and social mechanisms . . . prevent people from recognizing their wrongdoing and encourage them to feel as if they are far more moral, unbiased, and law abiding than they actually are”). [↑](#footnote-ref-93)
94. Merritt, Anna C., Daniel A. Effron, and Benoît Monin. "Moral Self‐licensing: When Being Good Frees Us to Be Bad." *Social and Personality Psychology Compass*, vol. 4.5, 2010, pp. 344-357.‏ (showing that individuals can use past good deeds to justify future violations of moral norms). [↑](#footnote-ref-94)
95. Tenbrunsel, Ann E., and David M. Messick. "Ethical Fading: The Role of Self-Deception in Unethical Behavior." *Social Justice Research*, vol. 17, no. 2, 2004, pp. 223-236 [↑](#footnote-ref-95)
96. **Tenbrunsel, Ann E., and Max H. Bazerman. *Blind Spots: Why We Fail to Do What's Right and What to Do about It*. Princeton University Press, 2011.‏**(explaining the concept of ethical blind spots, situations in which ethical deliberation is hindered and unethicality therefore proliferates). [↑](#footnote-ref-96)
97. Traditional preference-change literature recognizes external constraints on people’s preferences. That is, it might be that a person holds a preference for helping others, but she is not able to act on that preference since she does not possess the necessary financial means. Our argument in this paper adds another layer, that of internal constraints, to the factors limiting peoples’ ability to realize their preferences. That is, we argue that even if a person has a preference for helping others, and that person is able to realize this preference as a matter of external constraints, it might still be the case that cognitive biases will interrupt and limit that person’s ability to realize her explicit preference. [↑](#footnote-ref-97)
98. Cooter, *supra* note 6, at 1579. [↑](#footnote-ref-98)