## **Chapter 2. Behavioral Level**

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In the previous chapter, we outlined the main purposes of the book. However, another important part of the discussion on whether the public can be trusted is related to individual motivation to comply.

Presumably, there are certain motivations that are more likely to enhance trustworthiness in people. For example, an action motivated by external circumstances, such as monitoring and incentives, seems less stable than actions that result from an intrinsic motivation that is from an agent's personality traits and beliefs. The stableness of such intrinsic motivations rings true even by law and economics accounts. For instance, according to Robert Cooter's equilibrium account, internalization of legal norms is likely to produce stable civic acts in the public.[[1]](#footnote-1)

It should, of course, be borne in mind that voluntary compliance is not contingent on changing individual motivation. As discussed in the previous chapter, voluntary compliance could mean more than one thing, and there are more thin definitions of voluntary compliance which is not driven by intrinsic motivation on one hand but are also not coerced. However, in many ways, compliance motivation is the driving force behind the change this book wishes to bring in both regulation and compliance literatures. Moreover, motivation theories do not presume to suggest that changing individuals' motivation is a solution to all societal problems.[[2]](#footnote-2)

Nonetheless, motivation theories challenge dominant accounts, such as nudges theory, which attempt to changes individuals' behavior while ignoring their underlying motivation. Hence, the aim of this chapter is to examine whether motivation analysis could reduce and limit the role of the state in monitoring individual behaviors.

## Why is Intrinsic Motivation Important for Compliance?

As discussed in the previous chapter, much of the literature on compliance, has championed the advantage of intrinsic motivation to compliance.[[3]](#footnote-3) This advantage is grounded in three significant characteristics: when people are intrinsically motivated fulfil a given task, there is less need to monitor their compliance with the task’s instructions, their compliance is more resilient, and their performance is more likely to be above and beyond the required behavior[[4]](#footnote-4). Hence, one could intuitively see the advantage of intrinsically motivated behavior in the context of legal compliance.[[5]](#footnote-5) Spelling-out this advantage to the scholarship on legal compliance, nonetheless, requires a closer look at the aforementioned three characteristics of intrinsically motivated behavior. This is the goal of the current section.

## An important clarification is needed on what is intrinsic motivation

In psychology, the definition of intrinsic motivation is related to self-determination,[[6]](#footnote-6) and behaviors which increase peoples’ autonomy, enjoyment, and competence benefit from behaving in a certain way, that is when the behavior is somewhat rewarding for the individual.[[7]](#footnote-7) Extrinsic motivation is seen as such when the behavior is being done reasons unrelated to the action itself. Traditionally in motivation research, the focus is mostly on what is the internal source of motivation and how it relates to the self, and less so with regard to an entity like the law, which be definition is external to the person.

The difference between these two views, might be related to the question of how to treat factors such as fairness legitimacy, and morality which in the legal literature are seen as part of the intrinsic motivation, but in pure psychological definition of scholars like Deci,[[8]](#footnote-8) might not be seen as such as they are not related to the activity itself but to questions such as whether the social institutions that require it are just and accepted by others. Some of the differences might be related to the question that when speaking about compliance the behavior itself is in many cases not driven by the individual choice but imposed upon it and in some cases, it might be internalized by the individual, although it wasn’t originally their choice.

## 

## What does it mean to obey for intrinsic motivation? Between Reason, Morality and procedural Justice

Interestingly while there’s a growing consensus that compliance by intrinsic motivation is important on many accounts there are many different understandings to what it actually means. In principle, it is possible to think about three parallel approaches.

One is persuasion in the logic or science behind the law.[[9]](#footnote-9) This approach could be attributed even to Plato, where the mechanisms of intrinsic motivation have expanded beyond morality.[[10]](#footnote-10) Argued in a paper on plato’s laws that with persuasion and understanding of the logic behind the law,[[11]](#footnote-11) people are more likely to obey out of their own free will. This approach is also in line with the work of Zamir et al,[[12]](#footnote-12) on reason giving as a potential nudge for compliance which focuses on showing various signs the logic behind a request have increased the level of compliance.

another approach that is related to the content of the law but from a different direction is related to an argument which attempts to show that obeying the law is the moral thing to do.[[13]](#footnote-13) This could be attributed either to the potential harm caused by the violation of the law on various victims.[[14]](#footnote-14) Nonetheless, the notion of morality while always being seen as part of intrinsic motivation is not necessarily related to the law itself. For example, morality could be seen to be related to the general feeling of guilt, people might have, which is more related to the personality of the individual than to the content of the law.[[15]](#footnote-15) However, there can be a possible connection between persuasion and morality in the sense that it is more immoral to violate laws that make sense than laws that doesn’t make sense.

Finally, a third “intrinsic motivation” mechanism is related to procedural justice and legitimacy.[[16]](#footnote-16) As discussed below in more details numerous studies highlighted the importance of procedural justice that underlies the functioning of the legal system whose laws people are expected to obey.[[17]](#footnote-17) Legitimacy also increases compliance to the law.[[18]](#footnote-18) Accordingly, it was found that a procedurally just treatment of citizens by agents of the criminal justice system, usually the police, has the effect of increasing the citizen's compliance with the law. The citizens perceptions of procedurally just treatment are closely tied to perceptions of police legitimacy, and that is strongly associated with legal compliance.[[19]](#footnote-19) Interestingly, while perception of morality is seen as important in experimental studies, especially when it comes to experimental field studies, didn’t find an advantage of morality. For example, Barak Ariel found that deterrence and moral persuasion used in letters sent, using randomized field experiments, does not produce significantly greater compliance as it comes to tax reports.[[20]](#footnote-20)

## Is behavior without any type of monitoring, the way to discern between intrinsic and extrinsic motivations?

A major problem for researchers and even more so for policy maker is to be able to separate between intrinsic and extrinsic motivation, which might not necessarily be as mutually exclusive as some might assume.[[21]](#footnote-21)

There are few ways to ask what is, internalized compliance as it should be understood in regulatory and compliance research, and this should probably be narrower than what might be expected under the conditions of compliance research. For example, if to be seen as internalized, we might want to be in a situation, where the person has become a 100% full believer in the law, it might become and unrealistic and even problematic position to be in, as we might not want people to become true believers in any law, without any doubts which might be legitimate in democratic regimes.

Hence a looser definition, which might be more suitable for our book argument is that internalized compliance, is such that happen when no monitoring exists. Even if people are not true believers for our purposes this level of compliance could be seen as intrinsic.

## Compliance Motivations

The classical argument for the importance of understanding motivation in compliance in general, and in voluntary compliance in particular, is related to the assumed advantage of intrinsic over extrinsic motivation. This argument suggests that when people are motivated by intrinsic motivation, enforcement is not only cheaper but also might lead people to behave in ways which could not be achieved by mere deterrence.[[22]](#footnote-22) In many areas where behavior beyond compliance is desirable, there is a clear advantage for the non-instrumental motivation to human behavior.[[23]](#footnote-23) This advantage seems to be the main justification for a legal design, which is attune to the most likely dominant motivation in any given situation. This type of legal designed is likely produce a general acceptance of the policy as just, reasonable, or legitimate, and in turn, is likely to cause people to rely on their intrinsic motivation when complying with it.

However, the main challenge of the aforementioned theory is clear. One's ability to predict and spell-out which intrinsic motivation will indeed be superior to extrinsic one, without data collection for every given situation, seems at least cumbersome. Nonetheless, this indeterminacy or low predictability might be moderated in some "victimless" areas of legal behavior (such as in corporate contexts, for instance). However, we shall see in the remainder of the current Chapter that even if the indeterminacy is mitigated in these victimless contexts, a host of related question arise. For instance, are we likely to see higher levels of voluntary compliance in these contexts? Could the proportion of people engaging in voluntary compliance be determined in advance? What is the durability or erosion of voluntary compliance over time? Is there a different between different types of intrinsic motivations? Are there behaviors which are more likely to be positively affected by intrinsic motivation? Moreover, at the same time, we will also examine in current Chapter, and in subsequent ones, the risks of attempting to change people's intrinsic motivation.

## Defining what types of motivations could be seen as voluntary?

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

## What compliance motivation could still be counted as voluntary?

## There could be few distinctions between what exactly we mean in voluntary compliance. We will outline them in short, but overall, since the discussion in this book, attempts to be as inclusive as possible to allow for a meaningful comparison. It is possible to make a distinction between what the individual feel vs. what is the objective reality. So, if people feel that they are coerced subjectively, even if they have a choice, In instances where individuals perceive a sum of money to be excessively high, they may interpret it as diminishing their capacity to exercise free choicePrice motivation

On many accounts, the literature that discusses this approach is the richest one, given the centrality of both deterrence and incentives within legal scholarship.[[24]](#footnote-24) Many scholars have argued that perceptions of the severity and certainty of punishment have no effect on delinquent behavior,[[25]](#footnote-25) limits of deterrence in explaining both self-reported and actual compliance.[[26]](#footnote-26) Or because they have little awareness of the law in the books.[[27]](#footnote-27)

A common argument within this body of literature is that people are not very sensitive to the severity of a punishment, but rather to its probability of detection.[[28]](#footnote-28) Other analyses which reviewed much of the literature for and against deterrence concluded that, using the right measurements, deterrence is an important policy tool.[[29]](#footnote-29) Plonsky and Kineret have demonstrated in a PNAS paper that detection likelihood is more important than its severity. They argue that policy combining a high probability of inspection with a low severity of fines was more effective than an economically equivalent policy that combined a low probability of inspection with a high severity of fines.[[30]](#footnote-30)

Given the aim of the book to understand the balance between compliance and voluntary compliance, the price model seems to offer the clearest tradeoff between the two approaches where sanctions are seen as the most typical approach to compliance[[31]](#footnote-31) and rewards as one of the most typical approaches to cooperation[[32]](#footnote-32). However, in accordance with the argument developed in chapter 1 about the meaning of voluntary, it is clearly the case that at some point, incentives could be seen as preventing the ability of people to choose freely. Furthermore, the most straightforward in this context, is related to the research about crowding out and the effect of incentive on intrinsic motivation, is obviously the clearest among them. Incentives fines and voluntary compliance.

## Negative vs. Positive Incentives

Prospect theory is one of the most basic paradigms developed by Tversky and Kahaneman which emerged into what has been known as behavioral economics.[[33]](#footnote-33)

Loss aversion and the law has been subject of much discussion,[[34]](#footnote-34) within the law and many have analyzed and examined the vast majority of contexts in which Losses more painful than gains.[[35]](#footnote-35) In a joint work with Teichman and Schor,[[36]](#footnote-36) we have shown that people will engage in a much more aggressive and self motivated interpretation of their contractual obligations to avoid a loss.

In many ways, fines vs. incentivesis beyond the differences between loss vs. gains, as there is a social and normative component which is added to fines. [[37]](#footnote-37)For example, getting a fine could includes social stigmatization because of the expressive function of laws in general and punishment in particular,[[38]](#footnote-38) reputation loss,[[39]](#footnote-39) and sometimes even a record. Very few people will know of the fact that someone doesn’t get the incentive. Even with the fine is a price paradigm which attemts to equalize fines and prices, there are much to discuss and explain why this particular paradigm was not representative of other fines.[[40]](#footnote-40)

Despite economic perspective on the resemblances of negative and positive incentives, To what most people negative incentives undermine the notion of voluntarism, while positive incentives are not necessarily doing that. As we will outline in the following paragraphs. Is it the case that people can choose not to get the positive incentive more that they can choose to be sanctioned.

While economists tend to argue for the symmetry between being sanction to not be rewarded,[[41]](#footnote-41) hence the contribution of prospect theory on the difference between risk and loss aversion.

For most legal scholars, not such symmetry exists, because even just paying a fine is seems to be carrying a moral and a social baggage which could not be associated with not winning the reward. Rewards refer to (positive) incentives that reward citizens or companies for compliant behavior.[[42]](#footnote-42)

Within the research on rewards, we can focus for example on lottery prizes,[[43]](#footnote-43) Other studies examine monetary payments or restitutions,[[44]](#footnote-44) government benefits,[[45]](#footnote-45) subsidies,[[46]](#footnote-46) non-monetary rewards,[[47]](#footnote-47) and social rewards like praise. Also, some studies focus on rewards in the form of collective goods or benefits[[48]](#footnote-48). The contexts in which rewards were mostly studied with focus on rewards are for example in taxation,[[49]](#footnote-49) and the environment,[[50]](#footnote-50) as will be developed in the chapters discussing cooperation in these contexts. In addition some other studies focused on the efficacy in rewards in more specific context such as fare dodging,[[51]](#footnote-51) voter registration,[[52]](#footnote-52)) Taken together, the available evidence on the effect of rewards is fairly limited with some experimental and some field studies.[[53]](#footnote-53) Thus, with the limited evidence on the scope of the effect of rewards, we are still likely to believe that incentives are only partially harming the ability of people to choose to abstain from taking a certain behavior.

## Obligation to obey the law

In some of the studies we have collaborated on the duty to obey the law with Van Rooije and Fine, we have examined the obligation to obey the law as an independent concept to that of other compliance motivations.[[54]](#footnote-54)

In our investigation of individual differences in the perceived acceptability of legal rule violations, we developed and validated the Rule Orientation scale. This novel measure assesses the degree to which individuals perceive rules in a rigid, inflexible manner or in a way that acknowledges exceptions. We drew upon diverse bodies of literature, including research on neutralization, moral flexibility, and moral disengagement, to identify key circumstances under which individuals may find it justifiable to violate the law. These circumstances encompass lack of knowledge of the law, a cost-benefit analysis favoring violation, social norms supporting rule-breaking, conflicts between laws and personal morals, and a perceived lack of procedural justice in lawmaking and enforcement. The Rule Orientation scale captures individual variation in the acceptance of these justifications for illegal behavior.

Through our initial empirical studies, we established the convergent and discriminant validity of the Rule Orientation scale by systematically comparing it with existing measures of legal and moral reasoning. We found that Rule Orientation significantly predicted the intention to engage in various low-level crimes, even after controlling for the effects of deterrent threats, subjective perceptions of punishment severity, and perceived social norms. In a second study, we examined the relationship between Rule Orientation and digital offending behavior across different enforcement contexts. Our findings suggest that individuals with low Rule Orientation may be capable of justifying offending behavior regardless of the presence of an explicit enforcement campaign, their perceptions of sanction severity, or their beliefs about the social acceptability of law violation. These studies underscore the crucial role of individual differences in rule orientation in understanding ethical decision-making, criminal decision-making, and other facets of legal decision-making.

In a follow up study,[[55]](#footnote-55) that focused on national differences in the rule orientation scale

In our exploration of national differences in the Obligation to Obey the Law (OOL), we analyzed data from a survey conducted among a convenience sample (n = 716) of law students in the Netherlands, the United States, Israel, and China. Despite the existing research on procedural justice and OOL suggesting potential differences, our data did not reveal significant variations in OOL across these markedly different national populations. We sought to understand why no such differences were found and what implications these findings have for our understanding of OOL and compliance more broadly.

Our study builds upon the growing body of research on OOL, which has recently begun to examine the concept as distinct from legitimacy. This renewed interest has led to the development of new measures to capture OOL and investigations into various influences on OOL, such as procedural justice, impulsivity, morality, values, teacher legitimacy, and parental influence. However, prior studies have primarily focused on specific national contexts, with no direct comparative analysis of OOL across different legal and political systems. Our research addresses this gap by providing an exploratory comparative study of OOL in four countries with diverse legal, political, and cultural characteristics, paving the way for future comparative research on this important topic.

The findings of our study suggest that OOL is more closely aligned with individuals' personal characteristics, morals, and early socialization, rather than the broader legal system and cultural values of their respective countries. This conclusion highlights the need for a new research agenda that addresses the limitations of our exploratory study, which used a convenience sample of law students and could not account for all possible relevant differences between the countries. Future research should be designed to assess the mechanisms through which national legal and cultural contexts influence OOL, by including measures of procedural justice, deterrence, moral reasoning, and socialization, as well as considering multiple types of OOL (e.g., consensual versus coercive). Such research is highly relevant not only for questions of policing and crime control but also for understanding how societies shape the obligation to obey the law, which is crucial for their overall functioning and the rule of law.

## Content Related compliance motivations in the following paragraph we will outline the some of the compliance motivations which are related to the law itself rather than to the institution.

## The reason/science based motivation

Both the reason and the morality approach are basically focusing on a law that communicates with people that its content is either accurate scientifically or justified morally.

In the context of covid for example, it became clear that part of the compliance is related to the fact that the laws were based on some epidemiological science.[[56]](#footnote-56) Trust of the people in the science behind the law, were crucial to deicision to comply, making this a pure example of intrinsic compliance, where the law is being obey because it is stating the right thing to do.

The second regulatory approach assumes a reason-driven individual. According to this approach, the main assumption about human motivation is of an individual who looks to regulators to be convinced of the wisdom of engaging in constructive and efficient behavior while abstaining from destructive behavior. According to this informational account of the law, the legislative process aggregates information to produce a decision that is superior to the opinion of any individual legislator. As a result, if a legislative body prohibits public smoking, people might be less likely to smoke publicly because the process of enacting the legislation leads people to update their beliefs.[[57]](#footnote-57) Kagan et al,[[58]](#footnote-58) have taken a somewhat different view of informative functioning in an environmental context. They show how the law clarifies the boundary between activity which is harmful to the environment and activity which should be tolerated. An additional context, where the substantive focus of the policy maker was aimed toward information processing by the individual, is in the legislation of traffic laws. In this area, it is common to view informative campaigns that attempt to use scientific knowledge to increase peoples' response to these laws[[59]](#footnote-59) This model also resembles the work of Gray and Silbey (2010) taxonomy of how regulators are being perceived in various organizations. One of the models, "The regulator as an ally" primes on the perceived expertise and knowledge of regulators by the people they regulate. Recent work by Zamir et al[[60]](#footnote-60), which was mentioned above, demonstrate the potential of this idea. They have examined experimentally the effect of nudges which are basically explanations as to why one should obey certain request (e.g. where not to park, or how not to throw paper to the toilet. They show using vignette studies that when people are given reasons to obey they are more likely to do so relative to situations where there are no explanations.

## Social motivation

Social motivation, could in fact be divided to related but distinctive subcategories with different implications to their likelihood in maintaining voluntary compliance

Social norms is a rich literature that focuses on the prevailing norms and the effect of both its descriptive and injunctive components on how people behave.[[61]](#footnote-61)

When looking at the distinction between intrinsic and extrinsic motivation, when it comes to Intrinsic related to behavioral and social concepts like solidarity and social identity

Extrinsic is related to things like reputation and social approval and intrinsic is related to concepts such solidarity and social identities.

### Intrinsic vs. extrinsic social compliance motivation

As suggested social norms is one of strongest motivators for behavior could be seen as either related to the procedure – in a sense that if most other people obey, you should obey too or as related to the content of the law where in some context the law will deal with the social values people believe in. In these contexts, the law is not related to either being correct or just but it causes people to feel that their social identity will be enhanced if they comply with the law.[[62]](#footnote-62)

In that regard the social motivation is a hybrid creature between the procedure – that it how many others are complying and the content – how similar are the social and the legal values. Similarly, this case the attempt to examine whether social norms could be seen as coercive or as a voluntary we need to recognize that it carry both extrinsic and intrinsic attribute in ways which are hard to determine. The external one – is that you should obey the law since many other do, is not necessarily the case (expressive law) and might be problematic as people might be tempted to underestimate the proportion of compliers.[[63]](#footnote-63)

Within the perspective of social norms as an external motivation and as a cost people might pay for behaving against the prevailing social norms, the important work on altruistic punishment of deviance by others seems to be especially important. Ernst Fher and Simon Gachter[[64]](#footnote-64), have argued that when removing the likelihood of approval from others, people are far less altruistic. Nonetheless, this research has received lots of criticism.[[65]](#footnote-65) At the same time, social norms in legal context has also an intrinsic component related to expressive law, socialization and internalization as will be shown in the next paragraph that focus on the understanding of social norms in law and economics.

## Social norms in law and economics

Law and economics scholars have engage in the informative approach to social norm and various models about signaling and reputation mostly captured under the notion of expressive law[[66]](#footnote-66). McAdams attitudinal theory of expressive law suggests that enacting law solves a pluralistic ignorance problem by signaling the underlying attitudes of a community or society. Under this approach, the main legal motivation of people is to seek the approval of others.

Posner[[67]](#footnote-67) returning to his famous model of signaling, where for example paying taxes, individuals signal to their surroundings that they belong to a good type of people or the various models of using shaming to increase compliance.[[68]](#footnote-68)

But even according to such approaches where law signals to people what is the prevailing norms or what’s the right thing to do, to get ahead, there is a need for this norm to be seen as representing the majority view. Also, many laws are simply not that popular, at least not at first, which makes the ability to rely on social norms highly problematic in all of the cases where the law is not popular at least at first.

Also in a segmented society, there might be communities that don’t care at all about the law and their norms might be the most important one for people from these communities. Even when speaking about a prevailing norm, the assumption of many scholars is of an homogenous society. This is for example the underlying message of the work of Scott[[69]](#footnote-69), McAdams and Nadler. There is some unified norms and the main problem is that people don't always know about, if not for the expressive function of the law that reveals to them what is the majority of people thinking.

When laws are being discussed in the abstract than it easy to talk about social identity and social values, but it is simply not the case that all laws are such that they could be related to people values. furthermore, it might very well be the case that the important of intrinsic motivation might depends on the type of law, hence making the need to understand on what law we are talking about, even more important. It could be that laws related to peoples' daily life, intrinsic motivation might be even more important than in laws which are obeyed less frequently, where the interaction with the state is more legal and easier to monitor.

As we will show in further discussion, this approach to social norms as operating when it is the prevailing norms, is common to many of the people, who work within this field notable among them is Bichherhy philosophical analysis on the function and importance of social norms.[[70]](#footnote-70)

## Social norms as intrinsic motivation?

Social norms which in many studies are seen as highly contributing to compliance, are not necessarily part of what is intrinsic motivation as in many ways, it is related to external forces such as social punishment and shame.[[71]](#footnote-71)

In the context of normative messages, the importance of the prevailing social was shown to be highly important. For example,[[72]](#footnote-72) it was shown to cause hotel guests to care more about their environmental footprint.[[73]](#footnote-73) Another field experiment conducted in a hotel using the alternation of signs regarding towels also found that people tend to comply more with appeals employing descriptive norms, rather than the traditional appeal.[[74]](#footnote-74) However, again, when communicating to people what are the norms, especially in field experiments, it becomes unclear what leads to the change some more internalized process through which the fact that something is acceptable becomes what people actually want to do. Indeed, along those lines there are some studies that have examined whether under conditions of complete anonymity, social norms still had an effect.[[75]](#footnote-75)

However, at the same time, it is important to recognize studies on socialization,[[76]](#footnote-76) where social norms are becoming part of the identity of the individuals.[[77]](#footnote-77) It is the case that people behave as they think people in their social role and status need to behave,[[78]](#footnote-78) are they counted as doing so for intrinsic reasons? Is it related to the act? Clearly, theories of signaling,[[79]](#footnote-79) could be seen as external. But how about a situation when the behavior is seen as socially expected of someone in a certain position, but they don’t get any reward from the behavior itself?

One of the leading scholars when it comes to social norms is Christina Bicchieri,[[80]](#footnote-80)

In her influential book,[[81]](#footnote-81) "the grammar of society", she argues that for a norm to exist, sufficient number of people the to believe that it pertains to a given type of situation and that enough people will behave according to that norm. according to Biecheri, norm compliance depends on a conditional preference to cooperate, depend that others will cooperate as well.

In a later book,[[82]](#footnote-82) she takes a more behavioral and experimental approach and attempted to examine how is it possible to change the expectation of people with regard to the behavior of others. In this book too, the expectation about the behavior of others plays the most important role in the likelihood of change.

What’s important in her work is the notion of conditional preferences which breaks the intrinsic extrinsic divide much of this book is built upon[[83]](#footnote-83). In her work, people want to behave in a certain way, based on the assumption that others will do the same, making the notion of people who want something as an intrinsic motivation a dynamic concept.

## Social norms as a behavioral intervention

The attempt to use social norms to enhance compliance has been studied by many. For example, Shachar Eyal and his co-authors,[[84]](#footnote-84) have engaged in a field experimentation on cues to enhance social norms of paying on public transportations. The impact of watching eyes cues and descriptive social norm messages on fare evasion was studied in two experiments that were conducted in two railway stations in France. The results from both studies suggest that although watching eye cues alone are not effective in a crowded train station, exposing passengers to watching eye cues together with a descriptive social norm messaging campaign reduced the fare evasion rates observed by standard inspection operations, and eliminated lying behavior measured by the die-under-cup paradigm.[[85]](#footnote-85)

### Competing Intrinsic accounts of social motivation

A more intrinsic view of social norms, in a way which is distinctive from the type of research that mentioned as associated with the line of the research by Cooter and other law and economics scholars, is related to group identity, where behaving as others is not related to the information or to costs.[[86]](#footnote-86) The importance of group identity and the individual's need to belong is beyond debate in psychology.[[87]](#footnote-87) Group identity motivation is widely recognized in the social dilemma context as a way to countervail the self-interest of the individual.[[88]](#footnote-88) In the context of public goods, Tyran and Feld have demonstrated through experiments that people are conditional cooperators and want to engage in legal compliance when they have a reason to believe that others would do the same.[[89]](#footnote-89) Similarly, Kahan has suggested a somewhat different non-identity view as to why people would care about what others are doing. According to his approach, the individual needs to believe that other members of society share his or her commitment to the law in order to maintain his or her own commitment to society and to its rules.[[90]](#footnote-90) According to this approach, the focus is neither on reputation nor on identity but rather of the fear to be the only "sucker" who obeys the law.

Justice based motivation

In addition to social motivation, another type of motivation which is mostly a assumes that an individual is mainly motivated by morality and fairness. Given the assumed care for morality by the individual, the legal policy maker should design the law in a way in which would emphasize its moral virtue, (i.e. potential harm to others that would be prevented by compliance).[[91]](#footnote-91)

Distributive justice

Justice motivation is of course one of the most fundamental intrinsic compliance motivation.[[92]](#footnote-92) Within the concept of fairness, there are a number of sub-concepts which received much attention in the literature. One of the well-known distinctions in this context is between procedural and distributive justice. Distributive justice focus on the substance of the law -- that people will comply more when they think the individual gets from the law what he or she is entitled to or that an individual gets the punishment that he or she deserves.[[93]](#footnote-93) Interestingly while being a highly studied concept in law, philosophy and related topics, it has not been too central to the study of compliance, maybe because in many compliance decisions, there is no real distributive justice issues. However, in many contexts such as the taxes, torts and contracts, there is definitely, distributive justice issues. Furthermore, there is a marked similarity between the effect of morality, which is indeed widely studied, and distributive justice on one’s motivation to comply.

## Morality as intrinsic motivation?

Another limitation of the current research on intrinsic motivation, is related to the question of how the type of motivation interact with the likelihood that it will be internalized. For example, the connection between morality and intrinsic motivation is obviously subject to discussion. In many ways morality is seen as a type of motivation which comes from the individual herself without the need, once the moral norm is in place, to look for external motivation. It is also seen as a better type of compliance and a more sustainable one. For example, a study on 30 European countries found that perceived tax evasion highly negatively correlates with tax morale.[[94]](#footnote-94) In a field experimental study conducted online on a large sample moral framing was also found to be the most effective as it comes to perform an undesirable task following previous commitment, while the legal frame was found the least effective.[[95]](#footnote-95) Lawrence Freedman's recent book has emphasized the importance of 3 factors in enhancing the effect of the law on behavior. some of the factors are extrinsic such as rewards and peer pressure but some are related to communicating with people, factors which are at the core of what is being seen as intrinsic motivations such as conscience, legitimacy, and morality.[[96]](#footnote-96) However, the main problem with looking at morality as intrinsic motivation is that it doesn’t necessarily relate to the actual behavior to which one needs to comply. For example, people might feel a moral responsibility to behave in a certain way, not because of anything related to the behavior itself but due to maintaining their self-image as compliant people, or due to not wanting to be free riders. In addition, morality is highly connected to guilt and people might want to comply not because of the action but because of the fear of feeling guilty for not complying. It is not clear whether under the classical account of intrinsic motivation, behaving to avoid feeling guilty could be seen as an internal or external to the self.

Procedural justice

In contrast, procedural justice focuses on how decisions are being made in terms of neutrality and voice, regardless of the content of the decision or the law. Procedural justice is one of the most studied concepts with the psycho-legal scholarship. Starting from the work of scholars such as Thibaut & Walker,[[97]](#footnote-97) Lind & Tyler,[[98]](#footnote-98) Leventhal et al,[[99]](#footnote-99) a list of requirements has been suggested that need to be satisfied for people to experience procedural justice; among them, consistency, accuracy, and representativeness. Even without reference to its effect on legitimacy, the concept of procedural justice has both instrumental views as well as intrinsic ones. One of the leading scholars who explored the contribution of procedural justice legal compliance is Tom Tyler,[[100]](#footnote-100) In his widely cited book, “Why People Obey the Law”, Tyler suggests that procedural fairness, the way people are treated by authorities, is the main motivation for legal compliance,[[101]](#footnote-101) The unique contribution of morality to legal compliance was demonstrated in various legal contexts, even in areas which are usually viewed as economic ones, such as taxation.[[102]](#footnote-102)

At the same time, the view of procedural justice as extrinsic to the decision to comply, could be related not just to the fact that it is associated with the system behind the law, rather than by the content of the law, but also with regards to the mechanism it employes.

One paradigm which could be seen as mostly supporting the instrumental view is the information heuristics approach[[103]](#footnote-103), according to which procedural justice enhances compliance because it leads people to learn about the true content of the law. In other words, people don't really care about the fair procedure they just use it as a proxy or a signal to the fact that the law will be fair. In general this kind of perspective to procedural justice, while being seen as instrumental with regards to the outcome, it could be seen as intrinsic with regards to the Motivation to obey which is not dependent on monitoring or extrinsic measures.

The group based approach to procedural justice,[[104]](#footnote-104) which is not instrumental because of it focuses on the feeling to belong and to be treated with dignity as a valued member of the group either in the organizational level or in the state level, is actually making it look like extrinsic with regard to the law. With regard to the law, the meaning of Procedural justice is now extrinsic because the context of the law is not the issue. People obey to procedurally just law because they feel respected rather than alienated to the group.

## Levi approach to voluntary compliance

An important approach to procedural justice in the context of compliance, comes from the of Margaret Levi to legitimacy and voluntary compliance.[[105]](#footnote-105) In her work she focus on an important aspect related to this book – “quasi voluntary’ voluntary compliance, which is related to a combination of coercion and consent and is conditional upon the government behaving in a trustworthy way.[[106]](#footnote-106) Some other works by the same Margaret Levi,[[107]](#footnote-107)demonstrated the importance of trust in causing the public to cooperate,[[108]](#footnote-108) With particular interest for this book, is her focus on the relationship between trust and cooperation.

Levi discusses two stands in the research -- political trust, trustworthy government, and citizen compliance; and) political trust, social trust, and cooperation. where usually in her work cooperation means with others, but as this book attempt to put the focus on, this might be related to how people also behave regarding the requirements of the state, as in the case of environmental regulation, where some of the requirements are really a matter of cooperation, rather than that of compliance. for example, when the government tries to encourage people to cooperate in contexts such as in the case use public transportation or buy electric cars.where you can’t really talk about compliance let alone to force them to do it. ,

Part of what we need to think about when analyzing the value of voluntary compliance, is related to the parallel need for cooperation. If we recognize that cooperation is more common than the relevancy of compliance such as in some aspects of environmental cooperation that we might have a grater need to want cooperation.

In a different study Levi et al,[[109]](#footnote-109) focus on “willing compliance” and suggest that this is mostly related to factors of legitimacy and procedural justice.[[110]](#footnote-110) Furthermore, In a joint work with tyler, levi explores two aspects which are responsible for voluntary compliance, legitimacy and trustworthiness. Levi et al,[[111]](#footnote-111) relying on two datasets (one from the United States and one from sub-Saharan Africa), they argue the legitimacy affect compliance and legitimacy is influenced by perceived trustworthiness which in itself is built upon factors such as perception of leadership motivations, administrative competence, and government performance. As well as the perceived extent to which government upholds procedural justice. Using cross sectional analysis from New York and Africa, they find that procedural justice strongly influences citizens’ judgments about government. This finding is important because it suggests that procedural justice is an important predictor of both types of legitimacy, both value based as well as behavioral based which is connected with compliance. Her work with other procedural justice researchers such as Tyler, whose work was examined above, suggest how governments exercise their authority influences their legitimacy and shapes. However, this work has been mostly criticized for the lack of experimental work that actually showed that procedural justice has indeed improve the quality of compliance.[[112]](#footnote-112) Some other studies even challenged the size of the relationship between procedural justice and compliance.[[113]](#footnote-113) This impressive research which is supported by many other accounts of the importance of procedural justice, didn’t really say much on voluntary compliance other than focusing on people reporting that they want to obey the law.

More specifically, to the best of our knowledge the quality of compliance due to procedural justices was never tested and the assumption that people’s compliance will be better if people will do so for legitimate reasons is very plausibleis is not proven experimentally but mostly correlational and for the most part, the main advantage of such compliance is in the sense that it is less dependent on extrinsic reasons making it more likely to be long term and persistent. However, it is important to suggest that research in organizational context on performance, have usually associated intrinsic motivation with quality of performance and extrinsic motivation with quantity of performance[[114]](#footnote-114) . based on that distinction it is possible to speculate that similar effect will happen in compliance. Naturally when people are only complying to avoid punishment, they might only focus on the behaviors which could be monitored which usually focus more on quantitative aspects of compliance rather than on its qualitative aspects[[115]](#footnote-115).

## The advantage of procedural justice over other forms of justice in generating voluntary compliance.

In many ways, procedural justice is more likely to be related to the next model which doesn’t focus on the content of the law but rather on the institution. In other words, procedural justice, is related to the process through which the law was created and less related to its content. Between the two options to gain voluntary compliance one is through morality of the action and the other one will trust in the state. Clearly the second one is easier and might be more appealing to a broader consensus in the population. It is very hard to imagine a situation where everyone will agree on a certain law. in that regard even the effect about reason giving Which is seen as part of allowing people to feel that they understand the law might be also seen some sort of a procedural fairness. just by your attempt to explain what you do, you end up showing the public that you care about them you don’t have to crate laws which will be believed by them, content wise

## Legitimate laws and moral motivation

The main feature of legislation that needs to be responsive to this assumption of human motivation is its legitimacy. According to many accounts of legitimacy, the content of the law seems to be secondary to the perception that the law was formulated and executed with full authority. Here too, the distinction from the moral individual model might be problematic, as presumably immoral rules are unlikely to be seen as legitimate. Nonetheless, it seems that there is a genuine gap between obeying the law because it gives individuals moral commands or restraints, and obeying the law because the authority is entitled to compel its citizens to do so. Indeed, within the concept of legitimacy, there are scholars who focus more on the legalistic and institutional perspectives, while others give more weight to the content of the law,[[116]](#footnote-116) Fagan & Tyler,[[117]](#footnote-117) discuss the gap between the various perspectives of legitimacy, demonstrating the differences between its sociological, legal, and moral aspects.[[118]](#footnote-118)

Indeed, the ability to speak about legitimacy as a distinctive concept to the moral nature of the law's content seems to lie at the heart of the discussion of citizenship as a mutually exclusive model. On many accounts, when an individual is obeying the law due to an obligation, rather than under a belief in the morality of the law, there is a greater chance that that the individual will obey the law, even when he or she does not fully agree with its content.[[119]](#footnote-119)

And another study demonstrated how institutional actions can result in discord and resistance when institutions are concerned with perpetuating their authority and technocratic logics at the expense of meeting the social and developmental needs of individuals.[[120]](#footnote-120) (

## Motivational postures paradigm

In direct continuation to the discussion above on the procedural justice and legitimacy the paradigm of motivation postures extends this model into a more comprehensive understanding of compliance motivation. V. Braithwait, Murphy and Reinhart,[[121]](#footnote-121) argues in their famous research on motivational postures that “the most effective regulatory outcome is achieved when the regulatory process can dampen the “taking control” and “feeling oppressed “sensibilities and strengthen the “thinking morally” sensibility”.

Interestingly when analyzing the components of the motivational posture paradigm theory, it is very much related to argument we made with regard to procedural justice and legitimacy, being external to the law. This paradigm, also focuses on the relationship with the system and not with the law, making it again extrinsic to the law itself. However, as suggested above also with regard to trust, some of the postures are in lines with the motivation being not driven through processes of coercion. Valery Braithwaite implanted the term of motivational postures, that are described as signals that people send to authorities to indicate their willingness to defer to the authority’s rules. Braithwaite indicated five different motivational postures, commitment, capitulation, resistance, disengagement and game playing[[122]](#footnote-122)

Some tried to use Braithwaite’s motivational posturing framework to explain individuals’ reaction to authorities,[[123]](#footnote-123) The motivational posture theory was also applied and in the context of Australian agriculture and environmental regulation.[[124]](#footnote-124) Postures were predictive of beyond compliance behavior. The Aligned were more likely to undertake beyond compliance behaviors and Game players least likely.[[125]](#footnote-125) Another study examined the perceptions of regulators and of regulates toward the regulatory encounter to predict subsequent compliance with nursing home quality of care standards.[[126]](#footnote-126) Another study argues that the way in which the relation between trust and control is conceptualized in the dominant responsive regulation theory (RRT) may be improved using self-determination theory.[[127]](#footnote-127)

The article argues that the most effective regulatory outcome is achieved when the regulatory process can dampen the “taking control” and “feeling oppressed” sensibilities and strengthen the “thinking morally” sensibility.[[128]](#footnote-128)

The main problem with this approach from the perspective of this book is that it is not clear what is the likelihood that such posture will stay stable over time, how much of it, is dependent upon the specific of a legal ordinance. Furthermore, for the theme of this book, it is important to examine what are the antecedents of posture, what ensure it, how big is the connection between intrinsic motivation. Can state really change something with the posture of people?

According to this line of research gaining voluntary compliance is complicated because it requires regulators to be able to tailor their interventions to the level of people’s intrinsic motivation. The ability to tailor regulatory approaches to peoples’ level of intrinsic motivation, require some signaling by their action of their level of motivations, as well as to some knowledge on how they behave.

Habit formation

Finally when discussing the different motivations for behavioral compliance, while not being the focus of the book which attempts to take a motivational approach, we have to account for the role of habits in voluntary compliance, mainly because this has been suggested by so many scholars as one of the best ways to lead to a sustainable behavioral change. Katy Milkaman has also been an influential scholar on the area of habit formation, agrguing that for behavioral change to work, the best approach is based on creating habits which will reduce the need to interact with the person on every instance when cooperation is needed.[[129]](#footnote-129) This is very similar to what Van Rooij and Fine,[[130]](#footnote-130) argue with regard to seat belt becoming a habit trough an intense process that included many different regulatory tools up to a stage where people's motivation are not examined or analyzed.[[131]](#footnote-131)

Thus, most of the focus in the habit formation literature seem to get people to engage in the behavior, with little emphasis on the motivational approached needed to get him there and then following the repetition of the action people will engage in the behavioral which is desirable for the state or the organization in a mindless way. Whether it is about going to the Gym as Milkman write about or wearing a seat belt as Van Rooije and Fine write about. Clearly going to the Gym was not based on enforcement like wearing a seat belt but starting from a certain point, it is supposedly a similar affect. A similar attempt was done during the covid era, where wearing masks could easily become a habit, as it is a very simple type of behavior, where causing people to do it every time, will at some point lead to such behavioral pattern, the initial motivation that led to the original few times seems in some of this research as secondary to the mere effect of simply doing it over and over again. Similar thing could be seen in environmental contexts, such as when. Recycling could become a habit as it is also a very simple behavioral pattern.

## The Habit challenge

What about more complex behaviors where making them into a habit might be too problematic, when it comes to more complicated behaviors, where habit formation is not likely to be relevant, unless the habit focus on very abstract type of behaviors such as being honest.

Main problem is to predict what would make a behavior into a habit, and whether it is possible to break more complex behavior into more simple actions to which people could be induced. Also what about normatively creating habitual individuals? Is that even a permissive move for states to create such habits? Presumably when we want to do so for seat belt wearing it is easy, but is it also the case when it comes to behaviors with some greater externalities on people's autonomy?

## Trust as compliance motivation

One of the most discussed concepts within the area of regulatory governance is related to trust. Mostly in the classical way, trust is seen as replacing coercion, hence focusing on causing people to think about wanting to comply rather than being forced to comply. On the other hand, it is also possible to argue that trust in institutions is not related to the behavior itself but rather to the ability of citizens to believe that requests from them are legitimate. Obeying to a legal ordinance because one feels that the institutions is well functioning, professional objective and hence deserve trusting, could be seen as non-coerced but nonetheless as not saying anything about the wanting to behave in a way where the behavior itself is what the person wants rather than the because the institution have asked for it.

A demonstration of that complexity could be seen in classical studies by Murphy, who have shown how trust could be seen as the alternative to coercion. Murphy,[[132]](#footnote-132) argues the ineffectiveness of threat and coercion as a way to induce compliance. Using survey data collected from 2,292 taxpayers accused of tax avoidance, it will be demonstrated that variables such as trust need to be considered when managing noncompliance. If regulators are seen to be acting fairly, people will trust the motives of that authority, and will defer to their decisions voluntarily. Along the same line Pautz,[[133]](#footnote-133) & Wamsley,[[134]](#footnote-134) have also focused on the interaction between regulators and regulates and on the importance of trust being developed between the trust and deterrence.

A very important topic to consider when focusing on the effect of trust as an alternative to control and deterrence, is related to the question of the ability of trust and deterrence to operate side by side with each other. This question is so important because it is very hard for states to based their policy on trust, given the fact that so many people are less likely to be affected by it. The problem with the attempt to have both trust and deterrence and use them simultaneously, is obviously related to the crowding out argument. However, very interestingly, studies by Glockner et al,[[135]](#footnote-135) showed that they had independent contributions for both deterrence and legitimacy, in addition to other factors and overall find support for the predictive power of all relevant factors (e.g. legitimacy, self-control, deterrence) . Thus trust is related to both legitimacy and also to the functioning of deterrence.

Trust could be seen as either intrinsic or extrinsic motivation

The connection between trust and whether it is an intrinsic or an extrinsic motivation, depends partly on whether we are talking on cooperation or on compliance. When we are talking on cooperation with the system, then in many ways, trust could be seen as intrinsic because the motivation to cooperate with the system, is because we trust it. However, if the discussion is related to the legal compliance, then to some extent the trust in the system could be seen as an extrinsic reason to compliance with the law, since it is not related to the content of the law but rather to the system. This is different than trust in science which is intrinsic. I take the vaccine because I believe it is good for my health.

An important conclusion that could be reached from the research on trust would be to compare it with the literature on intrinsic motivation and morality.

For the state to be able to get people to internalize that compliance is the moral thing to do, it faces many challenges. Not all acts of the state could be seen as such. However, trust which is a much broader account than just procedural justice and legitimacy, could be seen as a standard that states should aspire to maintain.

In other words, it is easier to come up with a legal theory according to which the state is required to buy the trust of the public, it is less likely that we can ask the state to make sure everyone in the public is convinced that what they personally want to do is that they state requires them to do.

Nonetheless according to our typology, citizenship is the motivation according to which people comply because they feel this their duty. This is highly dependent upon issues such as trust and legitimacy and less so regarding morality and the content of the particular laws.

In that regard practices as reason giving might be seen as more relevant for content that for procedure, albeit clearly the two routes are connected. If people can’t understand the rationale behind a certain legal requirement, they might come to challenge whether such state is trustworthy.

Thus, it could be for example that it is more important the state tries to explain than what are the rationales the state actually give to people.

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135. Comparing and Integrating Theories of Law Obedience:

     Deterrence, Self-control, and Legitimacy

     Berenike Waubert de Puiseau1, Andreas Glöckner2,3, & Emanuel V. Towfigh 3,4. [↑](#footnote-ref-135)