# Chapter 4: The Regulatory Analysis

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## Trust vs. Coercion

This chapter focuses on the intricate relationship between trust, coercion, and the government’s regulatory tools for influencing public behavior. This research on the ability of governments to trust the publicpresents an important component of this dilemma related to the different regulatory tools the government could choose from in attempt to change the behavior of the public.

The previous chapter focused on *crowding out motivation* and on how different regulatory approaches affect peoples' compliance motivation. Especially regarding intrinsic motivation. In the current chapter, we attempt to examine how trust between the public and the government could be achieved through regulatory changes. Interestingly, while there is a lot of research on the interaction between trust and regulation, there is less research on the causal relationship between how regulation affects trust. For the most part, the research is related to the opposite direction -- the trust of the public in the institutions. Itis important to note the limitation in researching this subject due to the lack of theory on which regulatory interventions are likely to work. The even more complicated aspect is predicting what are the lasting and broader effects of the regulatory choice on the public’s response.

Thus, the voluntary compliance paradigm presents a multiple stage regulatory dilemma. Firstly, we need to assess which tool is likely to lead to the optimal behavioral change. Then, we must also account for the likelihood that this behavioral change will have broader and longer lasting effects on the likelihood of sustainable voluntary compliance.

An important aspect of this chapter, as part of the broader agenda of the book, is related to the need to understand the theory rather than simply rely on extensive data collection to solve regulatory dilemmas. Additionally, this only portrays the effect on behavior while ignoring the long-term reaction.

Regulatory dichotomy holds multiple dimensions. However, current research usually treats the dilemma as only one dimensional. Such is the case in the work of Kirchler on legitimate vs. coercive dimention.[[1]](#footnote-1) This is an example for important work which mostly assumes that the dichotomy of regulatory styles is spread around one dimension in the likelihood that it will lead to voluntary compliance. However, we can think of the following dimensions in the design of regulatory tools, and it is not fully clear how each of them relates to the level of trust they might generate.

The interaction of trust based regulatory approaches with these domains of voluantary compalince is not cohesive. We can naturally see coercion and sanctionas based regulation as being seen as antidot to volunyary comapliace but some of the ot her definitions creats a more complex challenge. For example it is not fully clear that non instrumental motivation such as guilt is associated with voluntary compalince.

Understanding that the effect of regulation on behavior depends on a combination of these dimensions. This is part of the paradigm this book attempts to express in creating a better connection between research on regulation and research on compliance. A more comprehensive approach is likely to allow us to better understand the relationship between the regulatory tools and their effect on the **likelihood of compliance.**

## Legitimacy and Enforced/Coerced Compliance

Studies suggest that trust and legitimacy can positively impact not only voluntary compliance, but also the effectiveness of enforced regulation. For example, Hofman found that legitimate power increases reason-bases trust, voluntary cooperation and success in enforced compliance. This challenges the assumption from other studies which assume that trust and coercion are competing and are mutually exclusive.

## Which Regulatory Approach Works?

Predicting the effect of each regulatory approach on broader aspects of society remains challenging. Such as the creation of trust between the state and the public. In the next few paragraphs, we examine an even more basic problem regarding the limited predictability of regulatory choices. One the best and most frustrating examples of the need for a trial-and-error approach, is the work of Milkman who compares dozens of interventions with regards to various behaviors. In her recent work on flu vaccination, she conducted a mega-study with 689,693 Walmart pharmacy customers. Her study demonstrates that text-based reminders can encourage pharmacy vaccination.[[2]](#footnote-2) Additionally, she establishes what kind of messages work best, comparing twenty-two different text reminders and using a variety of different behavioral science principles to nudge flu vaccination. Reminder texts increased vaccination rates by an average of 2.0 percentage points (6.8%) over a business-as-usual control condition. The most-effective messages reminded patients that a flu shot was waiting for them for multiple days. The top-performing intervention included two texts, 3 days apart and stated that a vaccine was “*waiting for you*”.

For our purposes, the most important and frustrating finding is that the experts who participated in the mega studies had failed to anticipate that this would be the best-performing behavioral treatment. From the perspective of this mega study, it demonstrated the value of testing from a theoretical perspective suggests how little we know on the effect of regulation on behavior and on the likelihood of voluntary compliance which is even trickier to isolate.

## Taxonomy of How To Decide When To Use A Regulatory Approach or When To Use Stricter Approaches

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Legal doctrine | Quality of compliance | Proportion of compliance | Cost of mistakes | Long/short Term | Heterogeneity 0f regulated population | Need for social support | Possibility for nudges | Feasibly of sequential approach | Alignment with intrinsic motivation | Feasibility of monitoring |
| Environment | High | More the merrier | Moderate | Long | Very high | Very high |  | Moderate | Moderately important |  |
| Taxes | Moderate | More the merrier | Low | Moderate | Very high | Moderate | Moderate | High | Least important | Very high |
| Commercial ethics | High | High | Moderate | long | Very high |  | Moderate | Moderate | Highly important | Moderate |
| Covid (mask) | High | Very High | High | Long | High | High | High | Moderate | High importance | Low |
| Covid (vaccine) | Low relevance | High | Moderate | Short | High | Moderate | High | High | High | High |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Legal doctrine** | Environment | Taxes | Commercial ethics | Covid (mask) | Covid (vaccine) |
| **Quality of compliance** | High | Moderate | High | High | Low relevance |
| **Proportion of compliance** | More the merrier | More the merrier | High | Very High | High |
| **Cost of mistakes** | Moderate | Low | Moderate | High | Moderate |
| **Long/short Term** | Long | Moderate | Long | Long | Short |
| **Heterogeneity 0f regulated population** | Very high | Very high | Very high | High | High |
| **Need for social support** | Very high | Moderate | פה חסר בטבלה המקורית | High | Moderate |
| **Possibility for nudges** | פה חסר בטבלה המקורית | Moderate | Moderate | High | High |
| **Feasibly of sequential approach** | Moderate | High | Moderate | Moderate | High |
| **Alignment with intrinsic motivation** | Moderately important | Least important | Highly important | Highly important | High |
| **Feasibility of monitoring** | פה חסר בטבלה המקורית | Very high | Moderate | Low | High |

## Coercive Power vs. Legitimate Power

The main paradigm we examine is which approach achieves compliance best. . As it relates to the line of research by Kirchler and their colleagues.[[3]](#footnote-3)

The dichotomy between coercive and legitimate power seems to be insufficient in capturing the connection between the regulatory approach and the compliance motivation of people.

A parallel discussion to *voluntary vs. non voluntary* compliance attempts to understand through which of these powers’ regulators can increase public compliance.

It should be noted that there is a gap between *extrinsic – intrinsic* and *coercive vs. legitimate* compliance methods. While the *coercive* method is clearly an extrinsic force, legitimate power doesn’t necessarily aim to achieve intrinsic motivation.

Some of this knowledge gap is due to a concept that exists in the literature on this topic, between extrinsic and instrumental, and intrinsic and non-instrumental motivations. People might comply with a legitimate power because they believe others might comply, not because they have intrinsic motivations within the action.

## Voluntary Compliance and The Order Without Law Approach

Another relevant and important paradigm in the attempt to examine regulatory approaches which might allow for voluntary compliance is, of course, the approach by scholars such as Berenstein on the diamond industry on how social norms could serve as a substitute for formal laws. As well as works by scholars such as Ellickson on how efficiency could cause neighbors in Shasta County to cooperate beyond of what is required by law.[[4]](#footnote-4)

The diamond industry is unique in its ability to use reputation/social bonds at a low enough cost to create a system enabling the most transactions to be completed entirely outside the legal system.[[5]](#footnote-5) It was suggested that historically, the Jewish merchants controlled this industry due to their ability to form an external reputation mechanism.

Contracts were thought to be enforced based on a reputation mechanism supported by a distinctive set of industry, family, and community institutions.[[6]](#footnote-6) In a later study on the cotton industry by Berenstein, the idea of an alternative legal system rather than a market driven trust system was argued to be the main reason for limited reliance on courts.[[7]](#footnote-7)

 The cotton Industry has also created some sort of self-regulatory private legal system to govern transactions among its members outside of the public legal system.[[8]](#footnote-8) These studies raise some questions about theo generalizability of the success to broader contexts. An alternative explanation can be seen in a study on the diamond exchange economy. In which the ethnically homogeneous middleman group is viewed as a club-like structural arrangement that provides alternatives to contract law. It seems this unique arrangement is based on mutual trust and reputation.[[9]](#footnote-9)

In Shasta County, research reveals that in a neighborly relationships, in accordance with the Coase theorem, law plays a lesser role than expected. People largely govern themselves by means of informal rules, social norms which develop without the aid of a state or other central coordinators.[[10]](#footnote-10)

Another study showed that People's concern for their own reputation can support creating contracts between a pair of trading partners when one or both are locked in the trading.[[11]](#footnote-11)

Finally, Mark Suchman's sociological study of lawyers in the Silicon Valley, presents an alternative view of the legal profession. It describes the market as the venture capital financing of "new technology-based corporations", where lawyers are viewed favorably by their clients and are perceived as adding value to a transaction rather than arguing over how to divide the transactional pie. This is as a result of a trust based relationship.[[12]](#footnote-12)

The importance of this paradigm is seen by many as limited in its ability to translate to other dimensions. However, it does suggest the importance of accounting for community governance as a potential alternative to state command and control. As we will demonstrate in the chapters on Covid and Environmental Behavior, community governance can be used as an important alternative tool to state regulation and might help in achieving voluntary compliance in more effectivly.

## Are Sanctions the Antidot to Voluntary Compliance?

Some of the most important regulatory dilemma is related to sanctions and its possible effect with regards to the ability of poepe to still develop an authonous feeling of themselves as choosing to comply voluntarily with regulations. What characterizes the type of regulatory instruments that are likely to lead to voluntary compliance both in the short term and in the long term? What can be gleaned from current research about which types of regulatory instruments (e.g., reminders, pledges, technological interventions, etc.) is likely to harm voluntary compliance both in the long run and in the short run? Does compliance become non-voluntary every time sanctions are used? In the next few paragraphs we will try to explore some aspects of these dillemas.

## Can we create sanction free regulation?

The short answer is no! while alternative regulatory strategies exist, they are needed in the background as any responsive law approach would suggest to influence behavior.[[13]](#footnote-13) The larger question to which there is limited answer in current empirical research, is what is the optimal way to locate deterrence in a place where it could affective?

In every discussion about the ability of governments to trust the public, there is a need to understand whether coercion works. Some might argue, that it is the safest and best for regulators. However, while there is ample research on the damages of deterrence to people’s intrinsic motivation moral commitment, there is another angle that needs to be discussed, whether deterrence even works. Van Rooij and Fine, in their recent book the Behavioral Code, dedicate two chapters to discuss the recent statistical studies of deterrence effect of policies such as “three strikes and you are out” and capital punishment. Their findings reveal a mix of results, with a majority of studies failing to establish a significant impact of severe punishment.[[14]](#footnote-14) They mostly focus on the certainty of enforcement. When the need for punishment arises, we may need to focus on various factors such as harm and immediacy of response needed. For example, when the regulated activity carries great potential for immediate harm to others, sanctioning might be the safest approach and focusing on deterrence might be more justifiable. On the other hand, if the regulated behavior requires the good will of the people and their behavior beyond compliance , the reliance on deterrence is not desirable, and greater focus should be placed on attempting to target people with the regulatory measures that support their dominant motivation.

Additionally, we should consider the enforceability of the targeted behavior. When enforcement is less costly than the need for focusing on voluntary compliance is being reduced, epseically when the behvaior is such that measuring complianance and its quality is relatgively easy.

Furthermore, there are behavior which hare less likely to be crowded out by any type of regualation, since the behavior depends on knowledge and the motivation comes from wanting to behave according to the knowledge communicated through the regulation. In other words, when the reulgaiton doesn’t add, an additional motiatior to comploy but just instruction as to what beavhiuor would be seen as a the right thing to do. For example ;et’s imagine that someone is really interested in driving safely, without enforcement, it is likely that both he and other drivers will drive faster. The first step focuses on what’s the safest driving speed in each context. The second step is the acknowledgment that they might be penalized for speeding, which causes the driver to make sure that they are in compliance with the speed limit. People are less likely to be motivated intrinstically to drive in a certain speed.

Finally, given the differences between individuals suggested above, preliminary analysis of attitudes of target populations could shed a light on the likely effect of each of the models on the aggregated compliance behavior.[[15]](#footnote-15)

## Enforcement Efforts & Voluntary Compliance

A potential hurdle to achieving voluntary compliance could come not from regulation but from how enforcement bodies work. In collaboration with Yotam Kaplan on ethical blind spots and regulatory traps, we highlight yhe potential disconnect between enforced and intrinsic motivation.[[16]](#footnote-16) This challenges the above-mentioned argument about the importance of enforcement as validating what is legal. In which cases, it it may make more sense to target those who are intrinsically motivated to comply. Revisiting the example of speeding, people who are only oriented toward extrinsic measures, might be less likely to get caught as regulators will find it easier to enforce and try catching those who want to drive safely but might misunderstand the speed limit because of some gap between the reality and the law.

To reduce such wrongdoings, regulators should, in their work, aim to eliminate ethical blind spots, these are scenarios and situations in which ordinary law-abiding people find it difficult to identify the harmfulness of their own actions by removing ambiguity and changing the conditions which contribute to unethicality.

However, they may be incented to conserve these ethical blind spots and [build regulatory traps around them](https://poseidon01.ssrn.com/delivery.php?ID=193021116117100005108083084116064018050053039063074059107023112074026014125098000122062055115111018120051030091025086027002029011005029023065113127091068092019029066010059009098096101065108112005110120121118123116004088083010005087086094009001004115120&EXT=pdf&INDEX=TRUE) as they prefer to increase the perception of their effectiveness by demonstrating intensive and rapid enforcement activity. By ignoring the underlying cognitive causes of unethicality, and instead allow wrongdoing to continue while constantly sanctioning those wrongdoers who repeatedly fall into the trap of these ethical blind spots.

Consider speeding tickets for example, usually, speed limits make intuitive sense to people and it is easy enough to abide by them if they care to comply with the law. However, in some situations, speed limits can be confusing or unintuitive. For instance when the speed limit drops for a small section of a highway. This is an ethical blind spot in the sense that in such a location, many law-abiding public will find the law unintuitive, and wrongdoing will proliferate. Ideally, in such cases, regulators should act to reduce ambiguity and diffuse the ethical blind spot. For instance, by making sure that road signs in such areas stand out and are particularly clear and salient. Yet, in many cases, police will prefer capitalizing on the ethical blind spot and create traps for wrongdoers, issuinguing a multiplicity of tickets and transforming the ethical blind spot into a regulatory trap. Indeed, [recent press reports](https://www.calcalist.co.il/local_news/car/article/BkWy00apiO) from Israel show that a staggering percentage of road tickets originate from such road sections.

In our [paper](https://poseidon01.ssrn.com/delivery.php?ID=193021116117100005108083084116064018050053039063074059107023112074026014125098000122062055115111018120051030091025086027002029011005029023065113127091068092019029066010059009098096101065108112005110120121118123116004088083010005087086094009001004115120&EXT=pdf&INDEX=TRUE), we further argue that the technological advancements in law enforcement can exacerbate these distortions. Automated law enforcement technologies such as speeding cameras or automated auditing tools are particularly effective at easily sanctioning identifiable and reoccurring violations. This means the introduction of such mechanisms makes it even easier for law enforcers to construct regulatory traps and enforce these ethical blind spots. – especially when those violations are reoccurring and follow known patterns. In other words, speed cameras are most effective when installed at an ethical blind spot where people systematically violate the speed limit. Violations in such locations are omnipresence, and – with the availability of speed cameras – extremely cheap to sanction. These can make regulatory traps an even more dominant and profitable strategy for police and other law enforcers. Therefore, when speed cameras are available, ethical blind spots on the road are simply too profitable for regulators to diffuse. Indeed, the [police objects to changing speed limits in those road sections that yield the greatest numbers of speeding tickets](https://poseidon01.ssrn.com/delivery.php?ID=193021116117100005108083084116064018050053039063074059107023112074026014125098000122062055115111018120051030091025086027002029011005029023065113127091068092019029066010059009098096101065108112005110120121118123116004088083010005087086094009001004115120&EXT=pdf&INDEX=TRUE).

In that paper Kaplan and I, have shown that similar issues can be relevant in many areas of law, from financial regulation to tax compliance, consumer protection, and regulation. To combat these disturbing trends, we must be more cogent of regulatory incentive structures and of the way regulators are affected by the introduction of new law enforcement technologies.

## Preventive Approach to Voluntary Compliance

Preventive regulatory approaches were used, making noncompliance a remote possibility. This practice may undermine and harm voluntary compliance, either in the short run or in the long run. In the short run, if one cannot not to comply because noncompliance is not possible, then no voluntary act is present. This raises the question: Does this long-term exclusion of choice have a negative effect to the fact that people don't choose to comply? For example, for many people whose main income comes from wages, they cannot avoid paying taxes. Is such a practice good or bad for their future tax morale?

Indeed, a possible solution it the preventative approach which deviates focus from ex, extrinsic motivation rather than intrinsic . This approach shares the instrumental view of compliance motivation but is less likely to interfere with other compliance motivations.[[17]](#footnote-17) In a preventive approach, regulators esure that people won’t have any opportunity to break the law, even if they wanted to. Technology, which is discussed in chapter \_\_, is one of the main tools through which such an approach gained popularity as it can control people access, usage, and execution of illegal activity. Such an approach is represented by Cheng who focuses on a structural law approach whereby the policy maker makes the socially undesirable behavior more costly by ex-ante design rather than by ex-post enforcement.[[18]](#footnote-18) Thus, for example, according to such an approach, the solution to mail theft would not be to impose fines, but rather to make the boxes less accessible to unauthorized individuals. Similar strategies can be observed in tax withholding to deter tax evasion or by using technological design to prevent file sharing rather than penalizing individuals. Although this approach does not emphasize enforcement, it aligns with behavioral perspective that the individual is instrumental and might have violated the law, if not for the costs of the violation. Moreover, this approach might be less likely to crowd out intrinsic motivations more so than other models as the individual usually learns very fast that noncompliance is not possible. Since there is no choice involved in this approach, one might not view regulations as coercion or a fear-based approach as no such deliberation is likely to occur.

At the same time, the main challenge with the preventive approach is that it may deter ordinary people from engaging in non-compliance. It may prevent individual with high willingness to violate regulations from doing so. In addition, insufficient research has been conducted to understand various issues, for example, including the expressive effect of the preventive approach on the public perception of trust. It might create some negative signaling ands harm the good will of the public to cooperate in other domains.

## Incentives and voluntary compliance

While the relationship between incentives and crowding out have been examined in the previous chapter, the current chapter will attempt to examine whether incentives which seems to allow people to choose whether to cooperate , indeed serve as a tool for maintaining the voluntary compliance in the long run also in areas, even in areas where incentives are not available. Key questions aise - What is the effect of giving people rewards for vaccinations? Or for recycling? Would it cause people to do less of the things for which they are not rewarded? Would it undermine the authority of the state? Which might seems as adopting a market like approach to compliance.

Researchers such as Saendel’s,[[19]](#footnote-19) and Tsilly Dagan,[[20]](#footnote-20) on the other, might suggest the potential negative effect on incentives on both the specific behavior and more importantly on how they treat the system which offered them the rewards for their participation.

Nevertheless, while many have argued against the effectiveness of deterrence, abandoning it as a sole regulatory tool does not imply that the assumption of the calculative individual has been abandoned. For example, under the same assumption on human motivation, various modern methods of governance have been created, including environmental taxation,[[21]](#footnote-21) and various forms of self-governance programs which do not always carry direct sanctions.[[22]](#footnote-22) Other scholars have suggested revisiting that the concept of deterrence In a broader perspective, accounting for various social factors, and sanctions that might make deterrence more effective.[[23]](#footnote-23) In this context, the environmental field has been an especially interesting context where deterrence has been used in a more sophisticated ways, through various regulations which force organizations to publicize their emission levels and face sanctions from the public.[[24]](#footnote-24)

In the context of this book, incentives pose as an interesting tool, granting people the liberty to choose and cooperate while coercion is involved. However, if we are interested in internalized voluntary compliance rather than non-coerced voluntary compliance, incentive will not be seen as a tool which would allow for internalized VC. As discussed in Chapter 3 instances of crowding out cooperation could be seen in the context of incentives. However, we will demonstrate that there are ways to use incentives to increase the likelihood of internalized VC’s .[[25]](#footnote-25)

## The Potential Risk of Morality and Fairness

Focus should be given to some of the models reviewed in this paper which are less likely to interfere with other models and carry unintendded effects as was demonstrated regarding sanctions or incentives. For instance, the concept of procedural justice, widely studied by scholars such as Tyler and others, is likely to increase legitimacy and compliance with less likelihood of interfering with effective functioning of deterrence.[[26]](#footnote-26) Similarly, informing people of the harm associated with their behavior may be relevant for some people without inducing resentment toward the law. Nevertheless, even with these approaches, some scholars propose the possibility that emphasizing morality might give people the impression that the state is unable to enforce the law, potentially backfiring.[[27]](#footnote-27) Thus, regulators should strive to identify the policy which will target as many motivations as possible while acknowledging the challenge of achieving complete success in this mission.

## Trust Based Regulation

The recognition that there is no one regulatory solution which fits all situations and there is a need for initial data collection. In the data collection, we need to account for quality of cooperation, enforcement costs, and contribution to the legitimacy of the regulator. How well does the tool interact with heterogeneity in the population. Do we need trust for trust-based regulation to work? Is it really the case the there is need for mutual trust for trust-based regulation to work. To what extent trust-based regulation is likely to work better in the long run. Do we know if it is indeed a stable enough over time. To what extent we can rely on “trust but verify” approach and still call it trust. In what situations we can say that can use multiple methods at the same time.

##

## Nudges and Volutary compliance

In chapter 2, we have differentiated between two types of voluntary compliance: non coerced and internalized. Nudges are the perfect example for a regulatory approach which doesn’t involve coercion on one hand but doesn’t necessitate intrinsic motivation to comply on the other. However, a few questions emerge. First, is there a difference between different types of nudges regarding both the meaning of coercion and the meaning of intrinsic motivation? For example, by default people might end up mindlessly choosing a certain option though they are not coerced to do so. If they really wanted to, they could have ignored it. But, then the question is how much effort they might need to utilize in order to deviate from the default option.

Think of the Netflix mechanism which pushes the next episode automatically. By their results, such mindlessness dramatically enhances the amount of people who will watch the next episode. People could easily stop their Netflix from running but many of them don’t. Is such behavior voluntary or not? In other words, are nudges that focus on causing people to do the right things, using mindlessness approach (in Netflix context, watching more is the right thing) seen as harming the voluntariness of compliance of people?

To the best of my knowledge, such views regarding nudges were not measured but would dramatically help our ability to understand the role of nudges vis a vis the concept of voluntary compliance.

Another view on nudges might be related to the research of Milkman and others on habit formation. If nudges can mindlessly cause people to behave in a certain way. Overtime, this repeated behavior might cause them to internalize it and then through processes such as cognitive dissonance, they can change their attitudes towards the act. Thus, nudges can indirectly cause this internalization process.

For a long time,researchers have debated whether nudges are indeed cost-effective, and for the most part the questions were how to measure and compare the cost effectiveness of nudges in relation to traditional interventions. [[28]](#footnote-28) What is missing from the current discussion is what are the long term effect of nudges on people’s attitudes towards the states and on their behaviors in contexts to where nudges are less likely to be effective.

What is the price associated with blindly complying with a certain law, when it mostly relies on nudges? For example, when we employ auditory signals to remind and alert people about wearing seatbelts, what effect does this have on such road behaviors which don’t and cannot utilize signals to influence conduct.. This may be concerning, as people will learn to expect some nudges which would help them be aware of what is it they areexpected to do. This line of argument is not that intrinsic motivation is the only way to create a sustainable compliance but to challenge the likelihood that other types of regulatory interventions might undermine it.

When attempting to understand the relationship between nudges and voluntary compliance, it is impossible to ignore a more basic question regarding the effect of nudges on behavior. As discussed above, one of the ways through which nudges could enhance the likelihood of voluntary compliance is through a change in behavior. Which later lead to an internal change in attitudes. However, for such change to happen, nudges need to have an impact on the change in behavior in the desired direction. However, apparently, this fact itself is questionable. In the following paragraphs we will examine this aspect.

Benartzi et al, whose "save more tomorrow" nudge,[[29]](#footnote-29) has been presented in many circles as one of the most effective and simple ways to understand nudges that increased the amount of long-term savings by people, have argued in a very influential paper that nudges are cost effective.[[30]](#footnote-30) They have argued that nudging is a valuable approach that should be used more often in conjunction with traditional policies. But, more calculations are needed to determine the relative effectiveness of nudging.

Unfortunately, not just that this claim is being challenged by Tor and Klick, who argue for problem in the methods they are using to measure cost-effectiveness are misguided from a theoretical economic approach. [[31]](#footnote-31)

## System 1 vs. System 2 Nudges

Generally speaking it is possible to distinct between nudges that change your attitudes and nudges that attempt to change your behavior, nudges that attempt to change your behavior without awareness and some that attempts to do it through peoples’ awareness.[[32]](#footnote-32) What we have seen in the previous paragraphs, demonstrate that in the nudge and behavioral public policy literature, there is a distinction between focusing on changing behaviors, using various small adaptation to the environment and other approaches that focus on boosting and reasoning, where the focus is actually on the person’s reasoning and self awareness.

In chapter 1, we have focused on different approaches to what is the definition of voluntary compliance. What is needed now is to understand to what extent, the different approaches about voluntary could help us understand the different types of nudges

## Nudge Plus

Peter and Shakaran, outlined a modified version of behavior change called nudge plus,[[33]](#footnote-33) which incorporates an element of reflection as part of the delivery of a nudge.[[34]](#footnote-34) Nudge plus builds on recent work advocating for educative nudges and boosts. Its argument turns on seminal work on dual systems which present a more subtle relationship between fast and slow thinking than is commonly assumed in the classic literature in behavioral public policy. Their overall argument does call for a combination of a system 1 nudges which will be accompanied by techniques and will encourage deliberation and reasoning.

In a similar way to the idea developed in the nudge plus approach, researchers have advocated for a different type of behavioral intervention: boosting. In contrast to nudges, which aim to change behavior through changing the environment, usually with limited awareness, boosts aim to empower individuals to better exert their own agency.

Underlining each approach are different perspectives on how humans deal with bounded rationality—the idea that we don’t always behave in a way that aligns with our intentions because our decision-making is subject to biases and flaws.

A nudge approach generally assumes that bounded rationality is a constant, a fact of life. Therefore, to change behavior we must change the decision environment (the so-called *choice architecture*) to gently guide people into the desired direction. Boosting holds that bounded rationality malleable and people can learn how to overcome their cognitive pitfalls. Therefore, to change behavior, we must focus on the decision maker and increasing their agency.

In practice, a nudge and a boost can look quite similar, as we describe below. But their theoretical distinctions are important and useful for behavioral scientists and designers working on behavior change interventions, as each approach has pros and cons. For instance, one critic of nudging is the paternalism part of Thaler and Sunstein’s “libertarian paternalism”,[[35]](#footnote-35) as some worry nudges remove the autonomy of decision makers (though the extent to which nudges are paternalistic, and the extent to which this is solvable are debated). Additionally, if the goal of an intervention isn’t just to change behavior but to change the cognitive process of the individual, nudges aren’t likely to be the best tool.

## Behavioral Change vs. Preference Change

The previous discussion explored the idea that nuddges should allow for some reflection on one’s behavior to change their intrinsic motivation. This perspective suggests that nudges, while altering behavior through defaults or other mechanisms, can ultimately influence individuals' attitudes and preferences.[[36]](#footnote-36)

An alternative viewpoint considers that behavioral changes may precede shifts in intrinsic motivation. This perspective implies that once behavior changes, preferences may follow suit over time. In her paper on law and preference change, Daphna Levinon Zamir,[[37]](#footnote-37) suggests that people change their behavior when they feel they have a choice to do so. In such cases, cognitive dissonance often comes into play, potentially leading to behavioral change.

A different view could be seen
In our joined work with Yotam Kaplan, we challenged the importance of attempting to change people's preferences if they had the option to reinterpret their behavior in a self-serving manner. Research in Law and economics suggested that, in appropriate cases, the law could improve people's behavior by changing their preferences. For instance, it could curb discriminatory hiring practices by providing employers with information that might change their preference. Supposedly, if employers no longer preferred one class of employees to another, they would simply stop discriminating, with no need for further legal intervention.

In that paper, we relied on behavioral ethics research, which showed that wrongdoing often originated with semi-deliberative or non-deliberative cognitive processes. These findings suggested that the process of preference change, using the law, was markedly more complicated and nuanced than previously appreciated. Thus, for instance, even if an employer's explicit discriminatory stance was changed, discriminatory behavior might still surface if it originated from semi-conscious, habitual, or non-deliberative decision-making mechanisms. Therefore, change in behavior may require close engagement with people's level of moral awareness. We discussed the institutional and normative implications of these insights and evaluated their significance for the attempt to improve preferences through the different functions of the legal system.

## Pledges and Trust Enhancing Nudges

In a series of collaborative papers with Eyal Pe'er and colleagues,[[38]](#footnote-38) we researched the effectiveness of honesty nudges, particularly in contexts where the temptation to cheat is high. This involves the challenge of determining the appropriate level of trust to place in people’s self-reports. This involves the challenge of determining the appropriate level of trust to place in people's self-reports and often leads risk-averse regulators to impose stringent requirements when granting permits and licenses. Although ex-ante commitments to ethical behavior have been suggested as a way to combat dishonesty and non-compliance, concerns have been raised that they might actually undermine trust.

Our research aims to shed light on the effectiveness of these pledges as we delve into the impact of these ex-ante commitments on ethical behavior. In one of our studies, we examined the relationship between pledges and ethical behavior over time,[[39]](#footnote-39) conducting two separate studies for a comprehensive analysis. The first study involved two phases of data collection, while the second introduced a time delay between making a pledge and the opportunity to cheat.

The results were promising; pledges not only reduced dishonesty in one-time decisions but also in sequential ones. Importantly, their effectiveness persisted across various timeframes and even when individuals were exposed to multiple pledges. Additionally, introducing a time delay after making the pledge didn’t weaken its impact. This suggests that pledges primarily discourage dishonesty by reducing ambiguity rather than merely serving as moral reminders.

Another crucial aspect is how pledges interact with sanctions. Their role is vital in regulatory practices ensures they complement pledges effectively. Since sanctions might not work well with pledges it will be very hard to use them in real life settings

We found that pledges consistently and significantly reduced dishonesty and their effect was not diminished by fines.[[40]](#footnote-40) Pledges were also effective for those less inclined to follow rules and norms. Therefore, pledges can be a valuable tool for regulating dishonesty and reducing regulatory burdens while fostering trust between the government and the public, even in situations with high incentives and opportunities for cheating.

 In another work in progress, conducted with pe'er mazar and arieli,[[41]](#footnote-41) pleadges on we present findings from four pre-registered experiments with a collective sample size exceeding 5,000 participants. Our research systematically examines the impact of pledges with varying levels of identification and involvement on participants' self-reports in a cheating task. Our results demonstrate that high-involvement pledges, which demanded a transcribed pledge text and personal identification, exhibited greater efficacy compared to pledges that merely required individuals to acknowledge the text's content. Notably, the effects of high-involvement pledges endured over time, even after a short delay between taking the pledge and the initiation of the cheating task. These findings offer practical guidance to managers and policymakers on how to effectively mitigate dishonesty in self-reports.

Our research focuses on the effectiveness and durability of ex-ante pledges in preventing dishonest behavior. Specifically, we address a challenging aspect of ethical nudges, namely, the longevity of their impact. The ability of ethical nudges to serve as a credible alternative to traditional command-and-control regulations hinges on their capacity to exhibit enduring effects, which forms the central objective of our study.

Prior research on pledges has primarily examined one-time decisions and has not thoroughly explored the long-term consequences of pledges, particularly concerning the existence of "ethical decay." To fill this research gap, we conducted two experiments. In these experiments, participants engaged in a matrices task, where they were either required to provide the exact solution for a reward or simply report having found a solution, with a 10% chance of facing an audit.

Our results indicated that participants in the self-report condition were inclined to report solving twice as many problems compared to those in the control group. However, when a pledge of honesty was introduced before the task, the gap in cheating behavior was reduced by half. Significantly, the effect of the pledge remained consistent over the course of ten problems, demonstrating its non-decaying impact.

In a subsequent study, we further explored the manipulation of pledges and fines. Remarkably, we found that pledges consistently reduced cheating behavior over time, irrespective of the presence or absence of sanctions. This finding holds significant implications for managerial strategies and policymaking in promoting ethical conduct.

Our study contributes valuable insights into the efficacy of ex-ante pledges as a mechanism for fostering honesty and highlights their potential as a sustainable approach in addressing ethical challenges.

## Regulation and Trust

In the last section, we are going to focus on trust. Is it the case that lack of trust leads to greater demand for regulation or does regulation reduces trust?

Many studies on the relationship between regulation and trust rely on correlations, making the ability to understand causality quite limited. However, most of the current research, provides some insight. It is not clear whether the state can create trust. Many studies argue that trust has eroded for other reasons. Which is why regulation replaced it and create greater demand for it. Or that given that amount of trust in a society, more regulation is needed. We also see that interpersonal trust is highly related to regulation and punishment. This lines up a theme which this book tries to develop – social norms and what we think about what others will do is the main driving force behind the public willingness to cooperate.

## Trust and Punishment

The “no one policy fit all' approach to regulation is more likely to enhance voluntary compliance as demonstrated by research from Balliet and Van Langewhere. They have examined the efficacy of punishment across high and low trust societies and conclude that high trust is needed for punishment to be affective.[[42]](#footnote-42) Summarizing 83 studies on public good experiments across 18 societies, they found that punishment more strongly promotes cooperation in societies with high trust compared to low trust. Thus, in contrast to expectations which suggest that punishment will be more effective in societies, with low trust punishment would be moe effective.

Taking a slightly different approach, in collaboration with Libby Maman and David Levi Faur, we found that people are more inclined to trust market actors when self-regulation is in place and they trust the regulators. However, under regulatory regime with sanctions, the level of trust in the regulator was irrelevent. While our study of course didn’t focus on the regulates but rather on the people who are supposed to be protected by the regulation of market actors, it demonstrates the interdependency between the regulatory style and the level of trustBoth lines of research emphasize the critical role of trust in shaping the effects of regulatory factors such as sanctions and even more so in softer approaches such as self-regulation.

## Three Different Types of Trust and Their Relationship with Voluntary Compliance

This type of research, which we focus on in the book, suggests discussing the ability of governments to trust the public. However, it is important to understand the relationship between the different types of trust, and examine het extent to which the government’s choice of regulatory toolsdepends on the level of trust within a given country. Research has indicated that trust in state institutions cause a casual impact on social trust. In other words, when the public trust their government and its institution, it tends to cause greater trust among people in the same society, whereas the evidence for a reverse relationship is limited.[[43]](#footnote-43)

The findings from a study conducted in Denmark determined that one of the factors that caused an increase in trust in the country, was an increase in the public trust in institutions.[[44]](#footnote-44) It was also found that, institutions, rather than culture, matter more for social trust.[[45]](#footnote-45) The study claimed that trust can play a key mechanism in the accountability of the state to the citizen, and, as a consequence, in improving their mutual cooperation.[[46]](#footnote-46)

Regarding social trust, the research outlines six main theories to the determinants of social trust and tests them against survey data from seven societies in 1999-2001.[[47]](#footnote-47) Three of the six theories of trust fare rather poorly and three do better.

First and foremost, social trust tends to be high among the public who believe that there are few severe social conflicts and their sense of public safety is relatively high. Second, informal social networks tend to be associated with trust. And third, those who are successful in life trust more, or are more inclined to trust, due totheir personal experiences. Individual theories seem to work best in societies with higher levels of trust, and societal ones, in societies with lower levels of trust. This may have something to do with the fact that our two low trust societies, Hungary and Slovenia, happen to have experienced revolutionary change in the very recent past and so, societal events have overwhelmed individual circumstances.

The relationship between social and interpersonal trust and the level of trust in institutions, has also been a part of the research on the typology of trust mechanism.[[48]](#footnote-48) In an attempt to understand the direction of the relationship between social trust and institutional trust, using a panel data approach, with observations spanning over 18 years, this paper shows that trust in people doesn’t necessarily predict trust in state. However, trust in state tends to predict the ability to trust people. In their words, "the results provide strong evidence of trust in state institutions exercising a causal impact on social trust, whereas the evidence for a reverse relationship is limited”.

This suggests an important role for government policy makers which could increase interpersonal trust by bettering the institutional design. Similarly, and in contrast to, scholars such as Hofstade suggest that culture in certain countries could be traced back to ancient history.[[49]](#footnote-49) In this paper, we argue that by engaging in regulatory practices, states could shift the level of trust in their own countries, thus making the regulatory dilemma far more important as the need is not just to adapt the regulatory intervention to the culture of the state, but also to influence it. In this paper, that focuses on the high trust in Nordic countries, long-term data analysis at both individual and collective levels suggests that high education levels, better state institutions, and increased trust in them along with generational replacement are factors contributing to the increased trust observed in Denmark.

That’s the most common type of research, one that explores the relationship between trust and regulation. It delves into a theoretically based model of causal relationship between the level of trust in each country and the demand regulation.[[50]](#footnote-50)

Research has suggested that in the second half of the 20th century, trust eroded and was replaced by regulation. Thus, suggesting that lack of trust invites regulation rather than harming it.[[51]](#footnote-51)This paper argues that governments shift away from cooperative regulatory styles because of the lack of the trust between the relevant stake holders.[[52]](#footnote-52) A similar approach of the lack of trust between regulators and the regulated can lead to changes in regulatory styles as can be seen in the paper by Gunnigham.[[53]](#footnote-53) His 20‐year case study of the mines inspectorate demonstrates the centrality of trust in regulatory effectiveness, how it can be lost, and how it can best be regained".

Examining public preferences on a c cross-national scale, this paper suggests that a reward based regulatory approach gains greater favor when there is greater trust in the ability of the government.[[54]](#footnote-54)

Moreover, this paper demonstrates how lack of trust could lead to dissatisfaction rather than the other way around, creating a political environment in which it is more difficult for leaders to succeed. [[55]](#footnote-55) Huang argued that by simply imposing duties on securities professionals it can cause them to behave accordingly even without the need to use penalties.[[56]](#footnote-56) He argues that analyzing the emotional, moral, and psychological consequences of broker-dealers' owing fiduciary duties is vital. Along these lines, Lange and Gouldson argue that trust based regulation is important not only because it fosters trust between regulators and the regulated but also because it encourages the regulated to engage in various collective efforts to achieve the goals, particularly in the context of environmental protection.[[57]](#footnote-57) Various studies have also demonstrated the benefits of trust in the interaction between inspectors and regulated.[[58]](#footnote-58)

In another study attempting to determine the causal relationship between social and institutional trust, using data from the World Values Survey/European Values Study for approximately 130,000 individuals in forty OECD- and EU-countries,[[59]](#footnote-59) evidence is found to that social trust depends upon institutional trust. Furthermore, through a sophisticated behavioral game theory involving a buyer and seller who must trust each other in a setting with and without regulation, experimental evidence is presented. It demonstrates that regulation is not just negatively correlated with trust. This reinforces the argument of many other studies which have argued for the existence of causal effects on the level of trust. [[60]](#footnote-60)

Braithwaite and Makkai famously argued that being treated as trustworthy will increase the likelihood of voluntary compliance among individuals. Using a case study from nursing homes to support their causal arguments.[[61]](#footnote-61)

Levi and his colleges argue that two interrelated factors influence the likelihood of voluntary compliance.[[62]](#footnote-62) Firstly, voluntary compliance with the law is influenced by individuals' views of the government's legitimacy. Secondly, individuals' conception of legitimacy depends significantly on the government's trustworthiness.

Similarly, Six demonstrates how trust in regulator and control may complement each other in their effect on regulate compliance.[[63]](#footnote-63) Along those lines, In collaboration with David Levi Faur and Libi Maman, we examined the possibility of various regulatory regimes which could be used to enhance trust. It is important to note that in our studies, the public expressed a preference for the government to engage in some form of active oversight rather than solely relating on firms to cooperate voluntarily..

In that study we have started with the distinction between regulatory designs are usually conceptualized as a dichotomous choice between state and self-regulation. Regulatory controls as proposed by the theory of regulatory capitalism is more one of conflation, where state regulation is often advanced alongside private forms of regulation.[[64]](#footnote-64) Such mechanisms include different and diverse forms of 'enhanced self-regulation'. Enhanced self-regulation occurs when organizations rely on intermediaries and stakeholders to monitor and sanction the behavior of the regulated and improve policy implementation, compliance, and reduce agency drift.[[65]](#footnote-65)

However, the scholarship has yet to investigate the role that regulatory design has on public trust. Trust that is crucial to vital market relationships and transactions.[[66]](#footnote-66) Therefore, this study analyzes the extent to which public trust is affected by various forms of regulation, considering this advanced framework of enhanced self-regulation. In that study we have used two web-based experimental surveys on a representative sample of Israeli society (Study 1: N=597; Study 2: N =598) to investigate public trust in a fictitious fintech company operating under different regulatory designs.

The findings of the first study reveal several key insights into the relationship between market trust and different types of regulation. Firstly, it was observed that knowledge pertaining to any form of regulation positively impacts trust in the market. Secondly, when examining state regulation with varying levels of monitoring, it was revealed that higher levels of monitoring are associated with increased trust in the market, as opposed to low monitoring state regulation, which relies on the regulatees' commitments and does not foster the same level of trust. Lastly, a significant interaction effect was observed concerning trust in the regulator for situations involving low monitoring state regulation. This suggests that state regulators can effectively utilize self-regulatory tools, maintaining elevated levels of public trust in regulated firms when there is a high level of trust in the regulator among the public. These findings underscore the importance of considering the interplay between different regulatory approaches and the resulting impacts on market trust.

In the second study, we sought to further test the possibility that enhanced self-regulation can provide a similar level of trust as state regulation. To this end, we examined six different potential enhancements of self-regulation. In that paper, we have tested the effect on trust using a combination between- and within-subject analysis – when state regulation was used as a control group. Our results show that all variants of self-regulatory mechanisms gain lower levels of public trust compared to a state regulatory regime. However, within self-regulatory designs, we find that a self-regulatory constellation includes the possibility of sanctioning increases trust.

All in all, the results of the first study were reinforced in the second study, showing that public trust in regulated firms increases with the existence of state regulation and that self-regulation (even if enhanced) lead to less levels of public trust. The interaction effects we found suggest that governments play an important role in ensuring public trust in the market, not only as regulators, but also when combining self-regulatory instruments such as pledges. In other words, our paper demonstrated that: (a) more government regulation provides more trust; and (b) trust in self-regulation (and perhaps deregulation) depends on public trust in the government.

The rise of self-regulation suggests a potential for voluntary compliance for those who will be willing to adopt greater transparency and accountability.

Adapting the type of the regulatory supervision is one of the most complex challenges. The regulator needs to protect the public and at the same time help business thrive. The concept of responsive regulation allows for a more customized and targeted approach. Based on the pyramid approach, the idea is that you first start with softer means and ideally the majority of people will cooperate with these approaches. There are usually three aspects which we focus on when attempting to find the best regulatory tool. The extent to which the regulated knows and understand the actions she is expected to take. The extent to which they are capable of the cooperating with the rules and their willingness to do so. The Dutch justice ministry has developed a framework to examine 11 factors which affect the likelihood of compliance. In a work done by Parker, she finds three main dimensions for spontaneous compliance happening without enforcement. Control dimensions which focused on how enforcement might affect compliance and third a punitive approach in which the effect of sanctions on compliance is expected to work[[67]](#footnote-67). Bartle and Vass conclude that a ‘new regulatory paradigm’ can be put forward which involves a form of regulatory ‘subsidiarity’. In the latter, the achievement of regulatory outcomes can be delegated downwards to the regulated organizations and self-regulatory bodies while being offset by increasing public regulatory oversight based on systems of accountability and transparency. [[68]](#footnote-68)

Many scholars have argued that states have a central role in enhancing trust towards market actors in cases where the regulators are seen as third party providers.[[69]](#footnote-69) Noteboom have also argued that regulators intervention is needed to help boost the ability of the pubic to trust market actors.[[70]](#footnote-70) Other scholars have demonstrated the importance of the public trust in regulators as a way to increase trust.[[71]](#footnote-71) Sztompkahad argued that trust in regulators depends upon factors such as transparency, accountability protection for private autonomy and regulatees rights.[[72]](#footnote-72)  Other scholars have argued that being seen as not too close to the industry carried importance for public trust in regulators.[[73]](#footnote-73)

Overall, when attempting to understand what is the factors that predict the public trust in institutions, some argue that this is dependent on the personal experience with the institutions and with their perception as being objective and representative.[[74]](#footnote-74) Other scholars have focused on demographic,[[75]](#footnote-75) and family relatedfactors as being the main predictor of their institutional trust. [[76]](#footnote-76)

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## Rules vs. Standards and Voluntary Compliance

Another important regulatory dilemma with high importance is related to the optimal level of discretion. Giving people discretion, is it good or not good in terms of its impact on voluntary compliance. Presumably, when giving people a regulatory instruction the question is whether allowing them greater flexibility by using vague terminology from the kind we tend to use in these standards. In a paper with Smith and Bossalis, we have examined experimentally the effect of vagueness and good faith on how participants reacted to instructions. [[77]](#footnote-77) To test these hypotheses, we used a 2x2x2 experimental design in which participants were instructed to edit a document with either general or detailed instructions, with a reference to good faith or without it and with a review of the work or without it. Participants could engage in various levels and kinds of editing, allowing us to distinctly measure both compliance and performance. When participants required information and guidance, as in the case of editing, we found that specificity increases performance relative to the vague standard condition. We discuss the characteristics of the regulatory frameworks in which our findings are especially relevant. Similarly, Mulder, Jordan and Rink argues also based on a series of five studies, that the effects of specific and general rules on ethical decisions that specifically-framed rules elicited ethical decisions more strongly than generally-framed rules. [[78]](#footnote-78)

Three studies are used to examine how surveillance and sanctioning systems affect cooperative behavior in dilemma situations. The first two studies demonstrate that a weak sanctioning system results in less cooperation than no sanctioning system[[79]](#footnote-79); furthermore, results from the second study suggest that sanctions affect the type of decision people perceive they are making, prompting them to see it as a business rather than an ethical decision. The results from these studies are used to develop a theoretical model that postulates that the relationship between sanctions and cooperation is due to both a signaling effect, in which sanctions influence the type of decision that is perceived to be made, and a processing effect, in which the decision processing, including whether or not the strength of the sanction is considered, depends on the decision frame evoked. A third study provides support for the processing-effect hypothesis.'

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## Expressive law theories

An additional line of research about regulatory effect is related to the expressive function of the law, where the impact of law is more general. Models that focus on social meaning or coordiantoin could fall into this category but what about implied social cost which exist in some of the contexts

Of course another aspect that complicates out ability to understand how the regulatory approach by the state affect the likelihood of VC, is the expressive law paradigm. The reason for this difficulty is related to the fact that expressive law theory demonstrate an indirect effect of law on behavior, thus making the ability to understand what exactly is the effect of law more tricky. According to expressive law research the law can shift peoples’ attitudes and understanding of what is the right thing to do, in processes that can take long time, especially because the focus is on indirect effects.

The Expressive Function of Trade

Secret Law: Legality, Cost, Intrinsic

Motivation, and Consensus

Yuval Feldman\*

In recent years, leading legal scholars have proposed many competing

models for the expressive function of the law. This article attempts to

organize and compare the competing models while examining a real-life

dilemma—sharing confidential information when one moves from one

company to another—and explores the mechanisms through which the law

can affect people’s behavior. The article examines the expressive impact

that results when trade secret laws are experimentally “primed” on factors

such as: intention to share confidential information, morality of sharing

confidential information, perceived proportion of other employees who

would share confidential information, and the likelihood of social approval

by previous and current employers for sharing confidential information.

Taking a path analysis approach, I discern which models (cost related,

morality related, coordination based, or reflection of consensus) best

explain the mechanism responsible for the expressive effect of legality. The

comparison between the models illustrates the relative legal repercussions

of price, consensus, and intrinsic motivation as they relate to employees’

evaluations of the prevalence and desirability of trade secret sharing norms.

Based on data collected from a sample of 260 high-tech employees in the

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Another theory to the expressive function of the law and to the perspective that if people are choosing mild law rather than having it imposed on them it is more likely to increase their compliance.

Tyran, Jean‐Robert, and Lars P. Feld. "Achieving compliance when legal sanctions are non‐deterrent." *scandinavian Journal of Economics* 108, no. 1 (2006): 135-156.

## When creating a duty might improve things

### Mandated Justice and voluntary cooperation

In a joint work with Tyler on the topic we have examined whether mandated justice is superious to voluntary one

We have found a diminstoin which is not necessarily taken into account in this debate

### Duty to report

In a study with Orly Lobel

When being forced to report my friend actually make my situation better

Another context could be when someone is forced to retire, this prevent the need to explain why he left

(e.g. compare retirement in the US relative to Israel)

## The unequal effect of incentives

Social value orientation and cooperation in social dilemmas: A meta-analysis

Daniel Balliet, Craig Parks, Jeff Joireman
Group Processes & Intergroup Relations 12 (4), 533-547, 2009
This article reports a meta-analysis of 82 studies assessing the relationship between social value orientation (SVO) and cooperation in social dilemmas. A significant and small to medium effect size was found (r = .30). Results supported a hypothesis that the effect size was larger when participants were not paid (r = .39) than when they were paid (r = .23). The effect size was also larger in give-some (r = .29) as opposed to take-some (r = .22) games. However, contrary to expectations, the effect was not larger in one-shot, as opposed to iterated games. Findings are discussed in the context of theory on SVO and directions for future research are outlined.

## The concept of social incentives to groups

## Incentives municipaliesrather than people

This was used both in the Covid context as well as in the

## Criminal Law Perspective

### Deterrence vs. retribution dilemma

The proposed chapter will examine how the area of behavioral ethics could influence the theory of criminal law and criminal punishment

We will discuss few related issues in which we believe the contribution of behavioral ethics will challenge the classical view of criminal law theory.

1. Should we punish more harshly behaviors which are easier to self-justify. While from a retributive theory of punishment, the clearer is the wrong doing of the offense, the harsher should be the punishment. From a deterrence perspective which focus on the likelihood of a greater proportion of the population who are likely to engage in that offence, behavioral ethics mechanisms might support the opposite view on human behavior, where actions with greater normative ambiguity could justify harsher punishment.
2. Similarly, Current criminal law suggests that we might reduce punishment, when the motive for committing the crime is an altruistic one. Behavioral ethics research suggest that “good” people might find it easier to cheat and be dishonest when the spoil of their wrongdoing are shared with others.
3. A related issue the chapter is related to the contagiousness potential of a certain act, as justification for harsher punishment. People who operate around the borderline, are more likely to blur it and cause others to follow through, thus expanding the acceptability and permissibility of acts which were perceived to be criminal. The severity of such toxic acts, derive from their potential to make other people involved in activities that were previously perceived as anti-social.
4. Another issued which we will discuss is related to the recognition that BE highlights the potential effect of organizational circumstances on the likelihood of individuals’ likelihood of committing wrongdoing. Understanding the size of this effect might justify imposing criminal liability on organizations for using outcome-oriented incentives as part of their pay structure. This issue is exacerbated when the organizations are enforcement agencies in which promotion and pay depends on measuring their outputs.
5. Lastly, we will discuss the complexity imposed by research about unaware biases which blind people from recognizing the full moral and legal meaning of their behavior. based on BE findings, criminal law theorists might be pushed to draw a very elusive line between negligence and knowledge/recklessness. In this discussion we will also account for the potential for willful vs. unaware ignorance of facts that harms one’s self interest.

## Can we really know which regulatory tool is likely to lead to more or less coercein?

## Is responsive regulation a realistic solution, given the harm to equality

Refer to the work by barak-koren and yael teitelbaum

## Who should choose?

## Lessons from the pleadges research

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77. Experimental analysis of the effect of standards on

compliance and performance

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78. The effect of specific and general rules on ethical decisions

Laetitia B. Mulder ⇑, Jennifer Jordan, Floor Rink [↑](#footnote-ref-78)
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