

A Literature Scan About:

Rule of Law and Voluntary Compliance

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About the Author

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Foreword

The New Synthesis Initiative (NS) is an exploratory project dedicated to preparing government to face the challenges of serving in the 21st century. The Initiative blends academic findings and lessons learned from practice to generate a theoretical framework adapted to the challenges of serving in a post-industrial era. The New Synthesis integrates conventional practices, new capabilities as well as emerging and innovative practices. It brings together the contribution of government, citizens and society to achieve results of increasing public value. It is dedicated to public sector leaders who bear the special responsibility of steering society through an ongoing transformation process to build a better future and improve the human condition.

The authors of NS “Literature Scans” review literature on a variety of topics relevant to the New Synthesis Initiative. The Literature Scans inform the NS Initiative’s future work. A Literature Scan is the responsibility of its author. It may or may not form part of the evolving New Synthesis of Public Administration.

Introduction

Modern governments are facing new law enforcement challenges. Public policy issues of increasing complexity and a changing relationship between the State and citizens create murky waters for governments to navigate. Changing citizen's expectations and behaviors mean that law enforcement is more challenging than before. The effectiveness of conventional practices for regulatory enforcement has been a growing concern for many countries.¹ "Inadequate compliance" has been identified as the main cause for regulatory failures in a number of developed countries.²

For many years, the basic understanding has been that Governments exercise a monopoly over law making and law enforcement. The State acts as the *guardian* of the collective interest.³ Citizens voluntarily accept to obey the laws that the State promulgates because this behaviour serves their interest by ensuring public safety and maintaining an organised and secure society.

The police, the army and the judicial system play an important role in the functioning of a law abiding society. Enforcement agencies play an important role in ensuring compliance with the laws. This document gives special attention to the role they play.

Enforcement agencies perform a dual role. Like other public agencies, they initiate actions to fulfill their core mission and produce results of value for society.⁴ However, unlike other public agencies, they must also initiate actions to prevent potential harm to society and reduce the risk of harmful behaviour.⁵

Without the voluntary acceptance of citizens to obey the law, the cost of law enforcement is prohibitive.⁶ Governments need citizens' co-operation to ensure compliance.⁷ The challenge for government is not only to enforce laws, but also to gain public support and build a law-abiding society.

This paper aims to contribute to the New Synthesis Initiative by reviewing the literature and exploring avenues to encourage voluntary compliance.

Role of the State

The State is made of communities of people with different interests. The concept of "collective interests" reflects interests "common" to a vast number of individuals. These interests include: security and order, economic prosperity and social well-being.

Citizens elect a government to protect and secure the goals and objectives that serve their collective interest.⁸ This relationship was described as the "social contract theory" by Thomas Hobbes in the seventeenth century.⁹ According to the "social contract" between citizens and the State, the former

¹ Organization for Economic Co-operation and Development (OECD), *Reducing the Risk of Policy Failure: Challenges for Regulatory Compliance* (Paris: OECD Publishing, 2000).

² Ibid.

³ "Plato: The State and the Soul", *Philosophypages*, online. <http://www.philosophypages.com/hy/2g.htm>. (Accessed on December 15, 2014).

⁴ Jocelyne Bourgon, "Rule of Law, Citizenship and Enforcement Strategies" (Ottawa: Public Governance International, 2015).

⁵ M.K. Sparrow, *Managing the Boundary Between Public and Private Policing* (Washington D.C.: National Justice Institute, 2014).

⁶ Theo J. Angelis and Jonathan H. Harrison, "History and Importance of the Rule of Law" Working Paper Series (World Justice Project, 2003).

⁷ <http://worldjusticeproject.org/publication/working-papers/history-and-importance-rule-law> (Accessed on November 19, 2014); American Bar Association, "What is Rule of Law?". ABA division on Public Education, American Bar Association.

⁸ <http://www.americanbar.org/content/dam/aba/migrated/publiced/features/Part1DialogueROL.authcheckdam.pdf> (Accessed on November 19, 2014).

⁹ OECD, *Regulatory Enforcement and Inspections, OECD Best Practice Principles for Regulatory Policy* (Paris: OECD Publishing, 2014).

⁸ Aristotle Book III. http://www.constitution.org/ari/polit_03.htm. (Accessed on November 20, 2014).

⁹ "Social Contract Theory", Internet Encyclopedia of Philosophy. <http://www.iep.utm.edu/soc-cont/#SH2a> (Accessed on January 11, 2014).

sacrifice some degree of freedom and accept the authority of the State for making laws as a necessary condition for the State to maintain peace and order in society. This role is referred to as the “protectionist” role of Government. It includes: law making and law enforcement.

Laws define acceptable behaviours in society. They reflect societal norms and shape expectations. Laws promote the common good and help to peacefully resolve conflict.¹⁰ They help to bring order and foster equality.¹¹ Laws are non-voluntary and, unlike other social norms, they are enforced by government and adjudicated by the courts.¹²

Effective *law enforcement* is paramount in “creating a well-functioning society and trust in government”.¹³ The term *enforcement* refers to the ability to ensure the law is active and that people act in accordance with the law.¹⁴ It is also understood as “all activities of state structures (or structures delegated by the state) aimed at promoting compliance and reaching regulations’ outcomes”.¹⁵

The Executive branch of government is principally responsible for law enforcement. It delegates its authority for enforcement to various government agencies.

Beyond regulatory and enforcement agencies, the police and the judiciary play a vital role in ensuring effective law enforcement. The former makes sure that citizens behave in accordance with the law, while the latter interprets laws, provides a mechanism for dispute resolution and ensures that citizens are treated equally under the law. An independent and impartial judiciary makes law enforcement mechanisms more effective.¹⁶

Law Making

Law making is not confined to laws. It includes ancillary ways of directing citizens’ behaviour. These methods are commonly known as *regulations*. According to the Organization for Economic Co-operation and Development (OECD):

Regulations include laws, formal and informal orders, subordinate rules issued by all levels of government, and rules issued by non-governmental or self-regulatory bodies to whom governments have delegated regulatory powers.¹⁷

Non-compliance with the law may lead to severe punishment. A breach of an informal order may have lesser consequences.

Regulatory compliance is defined as “obedience by a target population with regulations”.¹⁸ It requires the acceptance of a target citizen group to follow the rules. Societal acceptance of the law is essential to ensuring effective enforcement.

¹⁰ John Kelly, *A Short History of Western Legal Theory* (Oxford: Clarendon Press, 1992); Theo J. Angelis and Harrison, Jonathan H, “History and Importance of the Rule of Law”; “The Importance of Law”. Pearson Education. http://wps.pearsoned.co.uk/ema_uk_he_mcbride_letters_2/142/36409/9320853.cw/content/index.html. (Accessed on December 30, 2014).

¹¹ Hague Institute for the Internationalization of Law (HiIL), “Rule of Law Inventory Report: Academic Part” (Hague: Hague Institute for the Internationalization of Law, 2007).

¹² “What is the Law”, Justice Canada, <http://www.justice.gc.ca/eng/csjsj-just/02.html> (Accessed on December 30, 2014).

¹³ OECD, *Public Consultation on Best Practice Principles for Improving Regulatory Enforcement and Inspections* (Paris: OECD Publishing, 2013), 3; OECD, *Regulatory Enforcement and Inspections, OECD Best Practice Principles for Regulatory Policy*, 2014.

¹⁴ Merriam Webster Dictionary, An Encyclopedia Britannica Company. www.merriam-webster.com (Accessed December 10, 2014).

¹⁵ OECD, *Regulatory Enforcement and Inspections, OECD Best Practice Principles for Regulatory Policy*, 11.

¹⁶ Angelis and Harrison, “History and Importance of the Rule of Law”; HiIL, “Rule of Law Inventory Report: Academic Part”.

¹⁷ OECD, *Reducing the Risk of Policy Failure: Challenges for Regulatory Compliance*, 9.

¹⁸ *Ibid.*

Rule of Law

In the ancient Western civilizations, Greece in particular, laws were considered the supreme authority that govern the behaviour of citizens and the State.¹⁹ To sustain order in a society, the supremacy of the law was seen as essential.²⁰

This understanding later led to the development of the concept of “government of law, not men”. The Magna Carta, signed in Europe in 1215, secured the first legal recognition for the concept of the “rule of law”. It affirms that no person, including the sovereign, is above the law and that all persons shall be secured from the arbitrary exercise of the powers of government.²¹ This concept was frequently deliberated by Western philosophers over the years. In the 19th century, A.V. Dicey popularised this concept by introducing the expression the “rule of law”.²²

A review of the literature reveals that *five key conditions* contribute to building a society ruled by law:

1. Laws should be prospective, clear, and able to address the issue they intend to resolve.²³
2. Laws should be neutral²⁴; put differently, “legal detriments should only be imposed by law, not on the basis of personal will or arbitrary decisions of government officials or private actors”.²⁵
3. Laws should be universal²⁶ and applicable to everyone irrespective of their status in society; in other words, laws that apply to ordinary citizens should also apply to rulers and government officials.²⁷
4. Laws must be adequately promulgated, published or otherwise made accessible to their addressees.²⁸
5. The State should provide a fair, well-resourced and efficient law enforcement mechanism including an independent adjudicative procedure.²⁹

A society ruled by law can be described as “a rules-based system of self-government that includes a strong and accessible legal system featuring an independent bar and judiciary”.³⁰ The rule of law guides vertical interactions between government officials and citizens, and horizontal interactions among citizens.³¹

The rule of law offers many benefits. It creates “predictability and certainty” in society.³² Most importantly, a society governed by the rule of law guarantees fairness and equality for its citizens.

To sustain the rule of law in a society, popular consent is essential.³³ A law-abiding society is generated when citizens obey the laws adopted by law makers. Lack of citizens’ acceptance makes it difficult to enforce laws without the use of increasingly coercive measures.³⁴

¹⁹ Aristotle *Book III*; Theo J. Angelis and Harrison, Jonathan H, “History and Importance of the Rule of Law”.

²⁰ Ibid.

²¹ Angelis and Harrison, “History and Importance of the Rule of Law”.10.

²² Angelis and Harrison, “History and Importance of the Rule of Law”; Dicey conceptualized “rule of law” with three elements: supremacy of law over arbitrary power; the universality principle; and the derivation of rights from the ordinary law of the land, rather than the constitution. However, it is important to note that the validity of third element has been contested heavily.

²³ Hiil, “Rule of Law Inventory Report: Academic Part”; Lord Bingham, “The Rule of Law” *Cambridge Law Journal* 66, (2007).

²⁴ [http://www.jsijournal.ie/html/Volume%208%20No.%201/2008\[1\]_Bingham_Rule_of_Law.pdf](http://www.jsijournal.ie/html/Volume%208%20No.%201/2008[1]_Bingham_Rule_of_Law.pdf). (Accessed on January 8, 2014); “The World Justice Project: The Rule of Law Index, 2014” http://worldjusticeproject.org/sites/default/files/files/wjp_rule_of_law_index_2014_report.pdf (Accessed on January 15, 2014).

²⁵ Angelis and Harrison, “History and Importance of the Rule of Law”; Lord Bingham, “The Rule of Law”.

²⁶ Angelis and Harrison, “History and Importance of the Rule of Law”; Lord Bingham, “The Rule of Law”.

²⁷ Angelis and Harrison, “History and Importance of the Rule of Law”; Lord Bingham, “The Rule of Law”; Hiil, “Rule of Law Inventory Report: Academic Part”; “The World Justice Project: The Rule of Law Index, 2014”.

²⁸ Angelis and Harrison, “History and Importance of the Rule of Law”.

²⁹ “Report of the Secretary-General: The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies”. United Nations Rule of Law (2004).

³⁰ http://www.unrol.org/article.aspx?article_id=3. (Accessed on January 20, 2015); Lord Bingham, “The Rule of Law”; Hiil, “Rule of Law Inventory Report: Academic Part”;

³¹ “The World Justice Project: The Rule of Law Index, 2014”.

³² “Report of the Secretary-General: The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies” (2004);

Lord Bingham, “The Rule of Law”; Hiil. “Rule of Law Inventory Report: Academic Part”; “The World Justice Project: The Rule of Law Index, 2014”.

³³ Angelis and Harrison, “History and Importance of the Rule of Law”, 4.

³⁴ Hiil, “Rule of Law Inventory Report: Academic Part”.

³⁵ Ibid.

Why Citizens are Law-Abiding?

Citizens obey the law to realise their collective aspiration for living in a secure and orderly society. Two major schools of thought have provided explanations for law-abiding behaviours: the *deterrence* school and the *cooperative/compliance* school.³⁵

The *Deterrence approach* provides an instrumental perspective. It posits that people shape “their behavior to respond to changes in the tangible, immediate incentives and penalties associated with following the law”.³⁶ Motivated by self-interest,³⁷ people obey laws based on their “judgments about personal gains and losses resulting from different kinds of behavior”.³⁸ Based on this understanding, compliance with the law occurs in efforts to avoid the negative consequences associated with non-compliance.³⁹ For example, one would refrain from neglecting to pay taxes because tax avoidance is associated with fines.

The *Compliance/Cooperative approach* is characterised by a normative perspective that focuses on “internalised norms of justice and obligation”.⁴⁰ According to Tyler, the compliance/cooperative approach is “concerned with the influence of what people regard as just and moral as opposed to what is in their self-interest”.⁴¹ Citizens make normative commitments to obey laws because they view legal authorities as having a right to command citizens’ behaviours.⁴² Citizens voluntarily adhere to laws when compliance with laws aligns with their belief of what constitutes a responsible behaviour.⁴³ For example, one would obey road safety regulations because he or she agrees that this is the proper way of acting to reduce risks. The decision to obey laws does not result from weighing the costs and benefits of individual conduct; it is driven by moral reasoning.

In contrast to punishment under the deterrence approach, the compliance approach promotes education, guidance and persuasion to ensure compliance. A normative commitment is voluntary. As a result, the cost of enforcement is low and the outcomes are long-lasting.⁴⁴

Voluntary Compliance

Citizens’ expectations about the role of the State are changing.⁴⁵ Citizens aspire to play a more active role in society and in public policy making. Technological developments are giving citizens new ways of ensuring their voice will be heard on matters of interest to them.

Encouraging voluntary compliance from citizens yields significant positive results.⁴⁶ According to Ayres and Braithwaite’s *Pyramid of Enforcement Strategies*:

³³ Angelis and Harrison, “History and Importance of the Rule of Law”; Hiil, “Rule of Law Inventory Report: Academic Part”.

³⁴ Angelis and Harrison, “History and Importance of the Rule of Law”; ABA. *What is rule of law?*

³⁵ Sharon Oded, “Enforcement Strategies, Compliance Programs, and the Intermediary Gatekeepers”, Twentieth Annual Meeting on May 7-8, 2010, American Law and Economics Association. https://editorialexpress.com/cgi-bin/conference/download.cgi?db_name=ALEA2010&paper_id=197 (Accessed on December 10, 2014); Sharon Oded, *Inducing Corporate Proactive Compliance: Liability Controls & Corporate Monitors* (Erasmus University Rotterdam, March 30, 2012). <http://hdl.handle.net/1765/32036>. (Accessed on December 10, 2014); Sharon Oded, *Corporate Compliance: New Approaches to Regulatory Enforcement* (Cheltenham: Edward Elgar Pub. Ltd., 2013).

³⁶ Tom R. Tyler, *Why People Obey the Law* (New Haven, Connecticut: Yale University Press, 1990).

³⁷ OECD, *Reducing the Risk of Policy Failure: Challenges for Regulatory Compliance*.

³⁸ Tyler. *Why People Obey the Law*, 3.

³⁹ Tyler. *Why People Obey the Law*.

⁴⁰ *Ibid.*, 4.

⁴¹ *Ibid.*, 3.

⁴² *Ibid.*

⁴³ *Ibid.*

⁴⁴ *Ibid.*

⁴⁵ Vito Tanzi, “The Changing Role of State in the Economy: A Historical Perspective.” IMF Working Paper, 1997. <http://www.imf.org/external/pubs/ft/wp/wp97114.pdf> (Accessed on December 15, 2014); Mark Thoma, “What is the Role of the State? By Martin Wolf in the Economist’s View”. *Economist’s View*, September, 2010. <http://economistsview.typepad.com/economistsview/2010/09/what-is-the-role-of-the-state.html> (Accessed on December 15, 2014).

[I]nstead of using their most drastic regulatory strategies first, regulators should trade on the goodwill of those they are regulating, encouraging them to comply voluntarily, using more drastic regulatory measures only when that fails and reverting to a trusting demeanour when these strategies achieve their goal.⁴⁷

Ayres and Braithwaite encourage a sequential approach⁴⁸ starting from a less coercive method and gradually moving up to the use of force/coercive power when voluntary compliance is not attained.

A related question asks how the State can encourage voluntary compliance and normative commitments from citizens. Psychological theories of justice argue that people expect to receive justice in return for obeying laws.⁴⁹ If justice is served, citizens are more likely to obey laws. This includes distributive and procedural justice.

Distributive justice demands the justice of outcomes. People expect to receive fair results for their conduct. For instance, if somebody breaches laws by trespassing on another person's property, the latter would expect the former to be punished appropriately. If the court "erroneously" finds the former not guilty, distributive justice is not served.

Procedural justice demands that law enforcing authorities, such as the police and the courts, follow judicial procedures in their conduct. In the above example, if the police does not take action after several complaints by the property owner, procedural justice is not served. Procedural justice is at stake when public officials are corrupt or do not demonstrate respect for laws.

An Independent, Accessible and Capable Judiciary

Over the years, many societies have adopted three key measures to build an independent, accessible and capable judiciary. They are: the separation of powers, written constitutions, and judicial review.⁵⁰

The separation of powers among the branches of government contributes to ensuring the supremacy of the law.⁵¹ The concept was developed in Europe and popularised by Montesquieu in 1748. While citing examples from the Roman republic, Montesquieu argued that powers should be exercised separately and independently from each branch of the government – legislative, executive and judiciary.⁵² This ensures that the conduct of each branch is verified and validated by another, and prevents the arbitrary use of power.

Judicial review is the power of the judiciary to oversee the conduct of the Executive and Legislative branches of the State. A superior court empowered to conduct judicial reviews may nullify laws made by the Legislature and implemented by the Executive if they are not compatible with the supreme law of the country – the constitution. Judicial review guarantees that no one is above the law, although the scope and procedure of judicial review vary in different contexts.

Maintaining Public Trust

The behaviour of rulers and the relationship of trust⁵³ with citizens work to uphold societal justice.

Even when laws govern the affairs of society, the human factor cannot be excluded; "even a government of law is ultimately administered by men over men".⁵⁴ According to Tyler, legal

⁴⁶ Tyler, *Why People Obey the Law*.

⁴⁷ OECD, *Regulatory Enforcement and Inspections, OECD Best Practice Principles for Regulatory Policy*, 2014.

⁴⁸ The enforcement pyramid developed by Ayres & Braithwaite (1992) consists of layers from less coercive methods to coercive methods: persuasion, warning letter, civil penalty, criminal penalty, license suspension, and finally license revocation.

⁴⁹ Tyler, *Why People Obey the Law*, 5.

⁵⁰ Angelis and Harrison, *History and Importance of the Rule of Law*.

⁵¹ ABA, "What is rule of law?"; Hiil, "Rule of Law Inventory Report: Academic Part".

⁵² Ronald Schindler, "Montesquieu's Political Writings". <http://www.rschindler.com/montesquieu.htm> (Accessed on January 5, 2014).

⁵³ OECD, *Reducing the Risk of Policy Failure: Challenges for Regulatory Compliance*.

authorities should not only attempt to make laws that citizens are likely to follow, but should act in ways that enlist public trust and respect for them as the guardians of society.⁵⁵

The credibility and behaviour of law makers and law enforcers matter in order to win public trust. Their respect for the law⁵⁶ and commitment to maintain a character of honesty are key determinants of enlisting legitimacy for the actions of the State. Ancient Asian philosophers, including Confucius, argued that rulers should gain public trust in order to achieve political legitimacy, which is essential to remain in power.⁵⁷ According to Confucius, a mutually beneficial relationship is required to sustain good government.⁵⁸ To that end, he encouraged rulers to be benevolent, and refrain from cruelty, oppression and injury.⁵⁹

Issues for Consideration

A review of the literature highlights some emerging issues for consideration for enforcement agencies in developing regulatory and enforcement strategies.

Law Making as the Last Resort

The OECD suggests that excessive law making is detrimental for building compliance as it raises the cost of compliant behaviour and increases the complexity of the regulatory framework.⁶⁰ For citizens, having more regulations increases the difficulty of compliance.⁶¹

Studies have revealed a negative correlation between increased regulations and compliance levels. For example, small and medium size enterprises (SMEs) in developed countries are challenged with increasing regulations. In Mexico, 17 percent of the revenue earned by an average SME accounts for regulatory costs.⁶² Studies in Hong Kong, Australia, and Sweden have revealed that the majority of private enterprises did not understand regulations properly. The OECD has warned governments of the high risk of compliance failure due to increased and incomprehensible regulations.⁶³

Further, it is desirable to follow an incremental approach to encourage compliance. It is evident that “overly legalistic regulations” decrease the willingness of the target groups to comply.⁶⁴ It ultimately has a negative impact on compliance rates.⁶⁵

In general, it is wise to explore less costly avenues before reverting to regulatory solutions. Behaviours can be changed without imposing new regulations. The following approaches have been used by various countries to reduce regulatory costs and encourage voluntary compliance.⁶⁶

Economic Incentives

In some cases, economic incentives may motivate citizens and corporate entities to change their behavior in a way that better serves the collective interest.

⁵⁴ Ibid.

⁵⁵ Tyler, *Why People Obey the Law*.

⁵⁶ Hiil, “Rule of Law Inventory Report: Academic Part”.

⁵⁷ Doh Chull Shin To-ch’öl Sin, *Confucianism and Democratization in East Asia* (Cambridge University Press, 2012).

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ OECD, *Reducing the Risk of Policy Failure: Challenges for Regulatory Compliance*.

⁶¹ Ibid.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ OECD, *Reducing the Risk of Policy Failure: Challenges for Regulatory Compliance*.

⁶⁵ Ibid.

⁶⁶ Ibid., 21.

The City of Seoul's Eco-Mileage Program is an illustrative example of how a municipal government in South Korea achieved the desired policy outcomes by providing economic incentives. The policy goal of the municipal government was to reduce greenhouse gas emissions in the city. To that end, the program offers a variety of incentives (excluding cash) to participant households and organisations that reduce their consumption of electricity, water or gas considerably. The incentives include environmentally friendly household products, public transportation card replenishment, gift certificates for use in traditional markets, and credit card points.

Energy savings of the Program in 2013 accounted for savings equivalent to 153,375 tons of as well as 297,565 tons of carbon dioxide emissions.⁶⁷ Without making new laws, the Eco-Mileage Program has achieved the desired policy goals for the municipal government of Seoul.

Incentives can also be used to encourage compliance by the private sector. These incentives may include decreasing the number of routine inspections, penalty discounts for minor non-compliance issues, preferential treatment for licence and permit holders, and acknowledging good behavior publicly to increase corporate profiles. This "special recognition" can be provided by allowing actors to use a special logo to show regulatory compliance or offering preferential treatments in public procurements for commercial entities.⁶⁸

When voluntary commitments are recognised, private entities tend to maintain their corporate responsibility profile by increasing levels of regulatory compliance.

Behavioral Incentives

Applying behavioral economic insights to public policy making is gaining popularity as a means for achieving results without relying on regulatory instruments.⁶⁹ Many public policies are based on the rationality⁷⁰ principle. In contrast, behavioral economics "recognises that people are sometimes seemingly irrational and inconsistent in their choices, often because they are influenced by surrounding factors".⁷¹ Policies that incorporate behavioral insights take these factors into consideration in designing public policies.

The United Kingdom has increased tax payment rates by over 5 percentage points through the use of behavioural incentives. The UK found that citizens were more likely to pay their taxes after being informed that most other citizens had already paid.⁷² Based on the understanding that people typically prefer to be part of the majority, tax avoiders were encouraged to pay taxes when they realised that neighbouring citizens had already paid.

⁶⁷ "Best Practice: Eco-Mileage System". New York City Global Partner's Exchange Website. www.nyc.gov/globalpartners/innovationexchange. (Accessed on September 18, 2014).

⁶⁸ OECD, *Reducing the Risk of Policy Failure: Challenges for Regulatory Compliance*.

⁶⁹ Pete Lunn, *Regulatory Policy and Behavioral Economics* (Paris: OECD Publishing, 2014).

⁷⁰ Rationality principle follows a cognitive approach and stipulates that people are rational and always makes decisions based on logical reasoning. However, the validity of this approach has been questioned due to reported failures in achieving desired regulatory outcomes.

⁷¹ Paul Dolan, Michael Hallsworth, David Halpern, Dominic King, and Ivo Vlaev, "MINDSPACE: Influencing Behaviour through Public Policy". The Cabinet Office and Institute for Government, UK, 2010. <http://www.behaviouralinsights.co.uk/sites/default/files/MINDSPACE.pdf> (Accessed on December 1, 2014). p.4.

⁷² "What are Behavioural Insights?". The Behavioral Insights Team UK. <http://www.behaviouralinsights.co.uk/about-us> (Accessed on December 1, 2014).

It is important to note that economic and behavioral incentives work better for “compliance leaders” than for “compliance laggards”.⁷³ These measures do not replace the need for law making and law enforcement, but can reduce reliance on regulatory instruments by encouraging the use of a diversity of approaches.

Encouraging Citizens' Participation

Citizen engagement increases the likelihood of successful enforcement strategies.⁷⁴ Co-creation and co-production are effective ways of encouraging citizens to engage in finding solutions to public policy issues. Co-creation is an interactive process that brings service providers, users and interested contributors together to generate policy responses adapted to the circumstances.⁷⁵

The Integrating Network and Community Participation for Effective Malaria Management Program in the Tha Song Yang region in Thailand is an illustrative example of co-creation. The policy aimed to strengthen the participation of citizens in the planning, implementation and monitoring of a public health policy to reduce malaria morbidity in the region. The program created a platform in which health service providers and beneficiaries could work together to produce shared public health outcomes.

The project created impressive results. The number of malaria cases in the region was reduced by over 40 percent from 10,294 in 2010 to 5,935 in 2012.⁷⁶ As a result, costs of medication for the Tha Song Yang hospital also fell from 14,457 USD in 2010 to 8,148 USD in 2012,⁷⁷ while the average time associated with health service access decreased from 10 hours to 15 minutes per person.

Co-production consists of the shared and reciprocal activities of users and beneficiaries, as well as their families and communities, working with public agencies to produce results of public value.⁷⁸ Unlike co-creation, citizens are involved not only in designing a policy response, but also in the implementation stage.

In 2009, the Spanish National Police initiated a social media campaign aimed at engaging other stakeholders in society to reduce criminal activities. The campaign included launching a Twitter account, a Facebook page, and uploading YouTube videos to provide a platform for two-way communication between the Spanish Police and citizens. The social media platform has been helpful in detecting and preventing many crimes including homicides, online child pornography, arresting fugitives, sexual abusers, scam artists, and criminals threatening local celebrities.⁷⁹

The inclusion of citizens in the law making and law enforcement process encourages voluntary compliance. Governments also benefit from the contribution of citizens in achieving compliance goals.

⁷³ OECD, *Reducing the Risk of Policy Failure: Challenges for Regulatory Compliance*.

⁷⁴ Jocelyne Bourgon, “Rule of Law, Citizenship and Enforcement Strategies”.

⁷⁵ A New Synthesis of Public Administration (NS World). <http://nsworld.org/AboutNS/Module3/Co-creation-Co-production-and-Self-organization> (Accessed on November 22, 2014).

⁷⁶ “Integrating Network and Community Participation For Effective Malaria Management, Tha Song Yang District, Tak Province, Thailand”. (Thailand: Office of Disease Prevention and Control # 9 Phitsanulok & Department of Disease Control Ministry of Public Health).

⁷⁷ Ibid.

⁷⁸ A New Synthesis of Public Administration (NS World).

⁷⁹ Manuel Baigorri, “For Spanish Police, Twitter is the Social Media Gun” Bloomberg, Dec 17, 2013. from <http://www.bloomberg.com/news> (Accessed on October 8, 2014).

Conclusion

Achieving wide-spread compliance is a priority for any government. However, traditional methods of law making and law enforcement do not sufficiently account for the changing dynamics of the modern age.

A review of the literature reveals the importance of encouraging voluntary compliance through a diversity of means. Citizens' willingness to obey the law is an essential condition of success.

This paper contributes to the NS initiative by identifying avenues for further research in exploring innovative ways to support enforcement efforts. The findings of this paper underscore the importance of more research on this topic, particularly on how to build a citizenry that voluntarily obeys laws in order to achieve high societal results.

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