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# Whither Legitimacy? Legal Authority in the Twenty-First Century

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## Keywords

legitimacy, trust and confidence, normative alignment, compliance, cooperation, engagement, autobiography

## Abstract

My scholarly career has centered around articulating and testing a model of legitimacy-based law and governance. In recent decades, that model has achieved considerable success in shaping the way legal authority is understood and exercised. At the same time the legitimacy of legal, political, and social institutions and authorities has declined, raising questions about the future viability of a legitimacy-based model. In this review, I discuss the ascension and potential decline of legitimacy-based governance and outline alternative models of authority that may emerge in the twenty-first century. Three issues are addressed: whether there are ways to reinvigorate legitimacy-based law and governance; whether social norms, moral values, or ideologies are viable alternative forms of authority; and whether it is better to accept that no single form of authority works best in all situations and theories should focus on identifying the contingencies under which different forms of authority are most desirable.

## INTRODUCTION

My scholarly career has examined how to create cooperative and successful groups, communities, and societies. As a social psychologist, I have been especially interested in the psychology of authority and the importance of fair procedures, as well as how we can use research findings about each of these ideas to design effective laws and legitimate legal institutions.

We are living in a period of significant declines in at least some aspects of the legitimacy of legal authority. As a consequence, it is an opportune time to reflect on legitimacy-based governance and to consider how other approaches might also ensure support and compliance with the law and cooperation with legal authorities and institutions.

My interest in the role that legitimacy plays in law is both scholarly and personal. I am a product of the Vietnam War generation. For most people, that war is long forgotten, but it powerfully shaped my lifelong outlook and that of many other people of my generation. During that time, the government called upon young people to fight and die in a war that many viewed as unwise and unjust. It was necessary for young men to ask what legitimates government decisions, especially when being ordered to fight and potentially die in a foreign war. As scholars have later noted, the capacity to motivate people to fight in wars has long been a litmus test of the capacity of government authority (as well as the willingness to pay taxes; Levi 1988).

Challenges like the war in Vietnam are not aberrant. A central feature of human evolution has long been the challenge of motivating people to cooperate with ever larger and more complex groups (Wright 2000). Across societies and over history, establishing and maintaining the social conditions that promote productive cooperation and lessen the frequency and intensity of conflict have been a constant struggle. Productive social order can never be taken for granted; when it is achieved it is often short-term in nature, and societies frequently leave potential shared gains unfulfilled because they cannot better manage themselves.

The distinctive feature of modern efforts to create frameworks for social order has been that increasing complexity within more democratic and pluralistic societies is associated with greater potential benefits but also poses more complex challenges for governance. The root of many of these challenges lies in the fact that these newer forms of social order challenge basic human psychological characteristics. At a fundamental level, people are most comfortable trusting their intuitions, sticking to people like themselves, viewing similar others as superior and dissimilar others as inferior, and believing in one true set of facts and values. To be successful in social collectivities, people have developed other human capacities that move beyond these psychologically attractive but socially limiting tendencies. People are increasingly asked to identify with and be loyal to social entities composed of and led by people they do not know and never meet and to cooperate with and make sacrifices for distant and dissimilar others. Fortunately, studies suggest that although people may resist challenging social circumstances, they can adapt to and even embrace them over time (Ramos et al. 2019). Recognizing this possibility, societies develop institutions designed to socialize new members in ways that promote accepting these circumstances, for example, schools (Tyler & Trinkner 2018).

Guiding government efforts to structure social order using social theories and evidence-informed practices is recent. The beginning of these efforts is often linked to classic social theorists such as Montesquieu, Weber, and Durkheim (Morrison 1995). These social theorists identified and evaluated varying forms of authority. A particularly key theorist of modern legal authority is Weber, who articulated a model of legal and government authority especially appropriate for Western pluralistic democratic-capitalist societies: legal rational authority (Käsler 1988). This model examines peoples' feelings of responsibility and obligation to defer to political and legal authorities because they believe that those authorities are authorized to act on behalf of a collectivity, something commonly labeled legitimacy, and viewed as central to democratic governance.

Weber emphasized that legal rational authority was not the only model of authority that could exist (also see Beetham 2013), but he suggested it was a particularly useful one for modern societies because it could meld together large and diverse collectivities. Weber argued that people could be united across different norms, values, and interests through a common commitment to defer to legitimate authority.

In the post–World War II era, social psychology joined the legitimacy discussion and provided empirical evidence concerning the viability of different forms of authority (French & Raven 1959). One form of authority was legitimacy. The classic early examination of authority is contained in the work of Lewin, who highlighted the distinction between democratic authority, based upon elected authorities leading by obtaining consent, and autocratic authority, based upon appointed leaders who are directive (Gold 1999, Lewin et al. 1939). Other psychologists such as Milgram (1974) and Kelman & Hamilton (1989) further developed the psychological model of legitimacy.

In his classic work, Lewin also provided empirical evidence for the important role of exercising authority through fair procedures in perceptions of legitimacy. He did so by highlighting the role of electing leaders and deliberating to develop group goals. The idea of procedural justice was later elaborated by Thibaut & Walker (1975) and by Leventhal (1980). Thibaut & Walker's work in particular links the procedural justice of trials to the acceptance of verdicts. Procedural justice suggests that people make distinct evaluations of the appropriateness of the manner in which authorities or institutions exercise their authority and use those evaluations to shape their attitudes about their legitimacy and in shaping behaviors such as deference to the decisions of legal authorities.

These two ideas, (*a*) legitimacy as a basis for deference and (*b*) procedural justice as a key antecedent to legitimacy, form the core of a social psychological model of legitimacy and are consonant with ideas about the form of authority that is most effective for a modern democratic and pluralistic nation state. My own work, *Why People Obey the Law* [Tyler 2006 (1990)], tested these ideas by conducting empirical research focused directly on legal authorities and institutions.

At the time my book was first published in 1990, discussions of legitimacy had been largely supplanted in legal scholarship by a rational choice model that viewed people's relationship to the law as motivated primarily by gains and losses. At the time, economics was the dominant social science shaping law (Friedman 1986). Economists such as Becker (1974) used this theoretical model to present a view of law based upon self-interested choices, and the dominance of this model led to strategies of deterrence and incapacitation. These included increasing the number of police officers to deter criminals, as well as heightening the severity of sentences for those convicted of crimes. An important aspect of the rational choice model, like the legitimacy model, is that it defines a model of authority that can serve as the basis for a pluralistic and democratic state. The motivation to seek gain and avoid loss suggests a way to manage amid diversity and avoid value-based conflicts (Kahan 1999).

My own work challenged the dominance of the rational choice model. This argument is summarized in *Why People Obey the Law*. I began addressing this issue as a graduate student studying symbolic politics at the University of California, Los Angeles, under David Sears's mentorship. The symbolic politics model questions the role of self-interest in policy preferences and voting behavior (Sears et al. 1978, 1980). A natural extension of this argument in law is to question the role of self-interest in shaping compliance with laws and legal authorities.

*Why People Obey the Law* made two contributions to the legal literature of the time. First, the dominant empirical literature in law schools was in criminology. That field focused upon why a subset of people (criminals) deviated from the law to commit crimes. In contrast, my book focused on everyday members of the community and asked why they generally follow the law. This new framework helped to guide new research on social order.

The second contribution of my book is arguing and providing empirical support for legitimacy as an important antecedent of compliance or noncompliance with laws. My work contrasts legitimacy to assessments of the risk of being caught and punished for breaking rules. I do this research through surveys. Representative samples of the public are interviewed about their views about the police, the courts, and the law, for example, whether they believe that the police are legitimate authorities who are entitled to be obeyed. These questions concern the respondent's judgments about how legal authorities generally act in their community. Respondents are also asked about the frequency with which they follow the law and cooperate with legal authorities. Judgments about legal authority are correlated with self-reports of compliance and cooperation to determine the role of different factors in shaping behavior. A particular concern is to compare the importance of legitimacy and risk assessments in shaping everyday law-related behavior.

The basic pattern of results from that study is that both legitimacy and risk assessment shape compliance, but that the influence of legitimacy is stronger. Interestingly, the pattern found in residents of the United States in 2014 and residents of the European Union in 2010 is very similar (Tyler 2019).

The initial reaction to my arguments in the legal field was muted for two reasons. First, the deterrence model was well established, theoretically based, and empirically supported. Because the model worked, there seemed to be no compelling reason to reexamine existing systems of social control. For example, the dramatic declines in crime in the United States in recent decades are viewed widely as a consequence of a criminal legal system based upon deterrence and sanctioning models of law enforcement, suggesting the utility of those models (Zimring 2011).

Second, the issue of social order did not seem pressing. Social order was being maintained within a stable framework of institutions and authorities. There was no immediate need to find better models for maintaining social order. Even what seemed like a major crisis, for example, protests on the war in Vietnam, were directed at specific policies and not at the underlying system of social, economic, and political authority. This distinction between policy disagreement and regime support is well enshrined in political theory (Easton 1975). It suggests that policy conflicts are generally not a threat to system stability.

My work has been part of a general growth of scholarly interest in legitimacy. A Google Ngram analysis of scholarly references to legitimacy from 1950 to 2020 shows a steady increase in references to legitimacy, as well as a decline in discussions of deterrence and sanctions (see **Figure 1**). Today, scholars more or less assume that legitimacy should be included when talking about models of regulation.

The world has changed since 1990. Over time, the limits of the rational actor model and the deterrence strategies that flow from it have gained recognition. These include its high costs, its uneven effectiveness, and its inability to build public trust or encourage cooperation (Tyler et al. 2015). At the same time, recent events have thrown into question assumptions of basic societal stability. Today we face a plethora of crises in authority. The rapid emergence of a series of global pandemics suggests that managing the worldwide spread of diseases (COVID, HIV, Ebola, monkeypox) may be an enduring feature of the modern world. There is also the increasing political polarization within western democracies, threatening the idea of pluralism, and the rise of authoritarian models of governance, raising questions about the viability of democracy. Rising income inequality combined with increasing questioning of the fairness of systems of social allocation justified as being meritocratic are at the same time undermining systems of social hierarchy (McNamee & Miller 2018).

These current crises do not even include the long-term and fundamental challenges posed by climate change. Societies struggle to unite diverse groups within their own countries, while efforts to create broader common frameworks, ranging from the United Nations to the European Union,

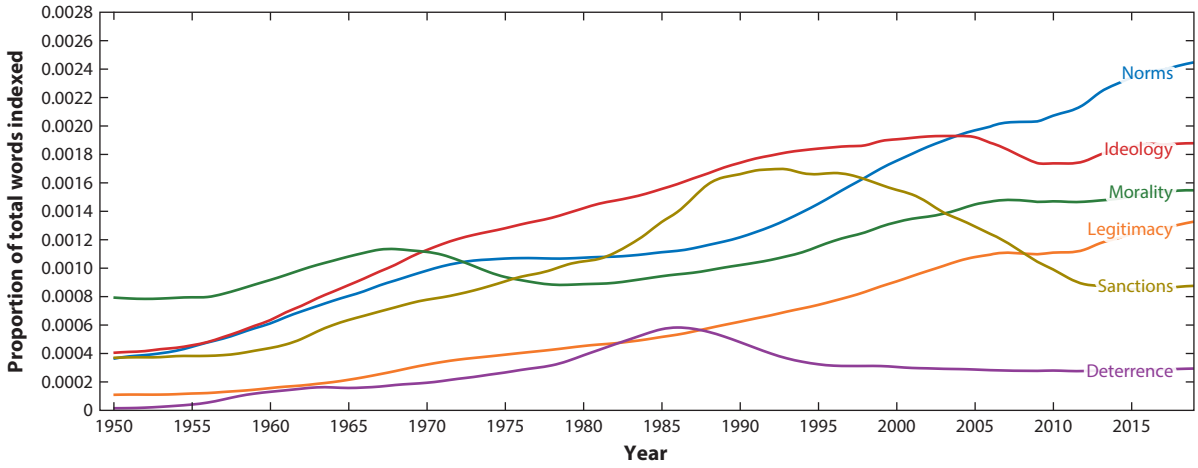


**Figure 1**

The number of citations to different terms in relationship to total citations in the Google corpus of scholarship, as identified by the Google Ngram Viewer search engine.

face even greater challenges. The idea of developing a unified global effort to save the planet seems unimaginable.

In the face of these challenges, we need to address possible mechanisms for building effective models of social order that can enable groups to proactively address common problems, issues addressed by the literatures on social dilemmas (Van Lange et al. 2014) and collective action (Ostrom 1990). We need to reexamine our assumptions. And in particular, we need to reexamine legitimacy's capacity to function as a model of governance. To me, this means that I need to reexamine the arguments that have framed my own work over my career. The twenty-first century may require change.

## LEGITIMACY AND THE EXERCISE OF LEGAL AUTHORITY

Legitimacy-based regulation has been influential in scholarship about legal institutions. Court systems have drawn upon the idea of legitimacy based upon procedural justice to redesign the civil and criminal courts. California, for example, made it the basis for a five-year statewide initiative (Emery 2009). Similarly, the ideas of procedural justice have supported various criminal legal reforms ranging from restorative justice conferences to drug courts (Gottfredson et al. 2007). Many police departments have also redefined their missions, cultures, and strategies to emphasize legitimacy building through procedurally just policing (Tyler & Nobo 2022). In 2015, President Obama's task force on twenty-first century policing labeled legitimacy the first pillar of policing and advocated efforts such as procedural justice to achieve it. Finally, prison studies have shown that a more procedurally just climate lowers both in-prison violence and post-release recidivism (Beijersbergen 2015).

In research, legitimacy has been indexed using three indicators (Tyler & Jackson 2014). The first is the perceived obligation to defer to decisions and obey rules and laws. The second involves expressions of trust and confidence in legal authorities. Finally, researchers assess normative alignment, i.e., the degree to which people believe that the authorities share the values of the people in the community.

The same research literature suggests that people's evaluations of the justice of procedures reflect their assessment of four aspects of procedures (Blader & Tyler 2003). Voice is the degree to

which people are allowed to present their evidence, state their case, and explain their views. Neutrality involves transparent procedures that make clear that decisions are made in fact-based, unbiased ways that apply rules consistently across people. Treatment with dignity and respect as a person and a member of the community is a third factor. A final element is whether people believe that the authorities are sincerely acting out of a benevolent desire to do what is best for the people or community involved. Assessments of procedural justice generally include at least these four factors.

## IS LEGITIMACY A VIABLE BASIS FOR TWENTY-FIRST CENTURY LAW?

Although legitimacy-based law has gained considerable traction, growing evidence also suggests that it may be necessary to reexamine the viability of legitimacy as a model in the twenty-first century. Discussions of the rational choice model recognize that one key challenge to its viability is not the psychology of the model but the capacity of societies to deploy sufficient resources to make the model work, in particular to raise the perceived risk of being caught and punished to a high enough level to have a behavioral impact. The same may be true in the case of legitimacy. There is now abundant evidence that legitimacy can motivate deference (Tyler et al. 2015), but the level of legitimacy needed to make the model effective may be declining. It does not matter that legitimacy can motivate compliance if the relevant authorities are not viewed as legitimate.

One of the most striking features of recent decades has been the steady decline in the legitimacy of institutions and systems. When talking about decline, most Americans immediately focus on political institutions, which have steadily lost public trust and confidence. In the United States, those declines are dramatic (Doherty et al. 2015), and similar declines are found in Europe in evaluations of governments (Ferrin & Kriesi 2016) and the European Union (Schout & Holderied 2018). Along with declining political trust, there have been declines in confidence in social institutions such as business and the press (Smith & Son 2012) and in the legitimacy of social allocation mechanisms that argue there is merit-based social status attainment (Dugan & Newport 2013).

While highlighting these declines, it is equally important to ask whether declines have occurred in support for democracy as a form of government (diffuse system support). At least in the United States, support for democracy as a form of government has declined, raising concerns about the increasing potential for political instability.

It is important not to overstate the case. At least in America, legal institutions have fared better than other institutions and authorities. Police legitimacy has remained particularly high. On the other hand, striking recent polls in the United States suggest that only approximately half of the adult population views their local police as legitimate, with legitimacy among minorities being substantially lower (Jones 2021). Similarly, recent studies of the legitimacy of the courts show low levels of support for local and federal courts and the Supreme Court (Natl. Cent. State Courts 2019).

Although legitimacy is a great model in theory, in reality the prerequisites for the legitimacy model may be increasingly absent in twenty-first-century western societies. If trust is low, then legitimacy-based governance may not be realistic. Given this background, can scholars and policy makers continue to advocate for a focus on legitimacy-based governance in the twenty-first century?

It may not be necessary to accept or reject the legitimacy-based model or any other model as an overall model. Both deterrence and legitimacy are attractive models of governance because they are suggested to potentially influence everyone within a given society at the same time. The most desirable approach in the future could also be some form of a contingency model of authority in which different types of authority are most effective and desirable under different circumstances. In the future, we may need to accept the idea of contingent systems of authority and focus on the

factors that define the range within which particular types of authority will best achieve societal objectives.

Recent evidence about the continuing significance of legitimacy is mixed, with the COVID pandemic producing an opportunity for research through the need for widespread public compliance with a variety of rules. Some studies make clear that legitimacy continues to influence compliance with COVID regulations. Examples are studies in the United Kingdom (Kooistra et al. 2021), Australia (Murphy et al. 2020), and the Netherlands (Folmer et al. 2021). On the other hand, in the United States, where declines in trust are especially striking, recent studies point to the centrality of other factors. Moral values and social norms are found to matter (Van Rooij et al. 2021).

A recent 177-country study in *The Lancet* suggests that government legitimacy (indexed as trust) is associated with lower rates of COVID deaths (Dieleman 2022). If all countries had the level of trust in government of the highest-trust societies, for example, Denmark, 13% fewer COVID deaths would have occurred globally.

What can be said looking forward? I outline three approaches. The first is enhancing legitimacy-based governance. The second is reconsidering other forms of authority. Finally, it is possible to reject any general form of governance and consider a conditional or contingent approach.

## CAN WE REINVIGORATE LEGITIMACY-BASED GOVERNANCE?

Why would a society want to re-enable a legitimacy-based form of governance? First, legitimacy supports pluralism. Legitimacy can bridge across differences in values, norms, and ideologies. If legitimacy does not work, can pluralism? Similarly, legitimacy supports democratic forms of government, so a question is whether other forms of authority can also support democracy.

Legitimacy also supports a broader set of goals. What goals might a society want? Two important goals are cooperation and engagement. The case for legitimacy becomes stronger when we move beyond compliance toward the goals of cooperation with authorities and engagement in communities (Tyler & Jackson 2014). Law has traditionally focused on preventing harm, but the absence of harm is not the same thing as the presence of societal vitality or individual well-being. Legitimacy is found to directly promote voluntary cooperation with state actors as well as individual well-being and community vitality. Legitimacy-based governance is as effective in preventing harms such as crime as an instrumental deterrence approach but additionally promotes social, economic, and political development (Tyler & Nobo 2022).

How can we reinvigorate legitimacy-based governance to make it more effective? The first option is to combine the two universal models of authority already outlined: deterrence and legitimacy. Both models claim the capacity to bridge over differences in norms, values, and interests. Traditionally these two general models have been seen as being in opposition. The idea of opposition flows from the concept of "crowding out" (Deci 1975, Frey 1997), which suggests that use of sanctions undermines the role of legitimacy in governance. People come to define their relationships in terms of costs/gains, and the relevance of legitimacy to decisions declines. Recent studies, however, suggest that sanctions can be used without damaging legitimacy, if the sanctions are deployed through procedures that people evaluate as being just (Verboon & van Dijke 2011, Yasrebi-De Kom et al. 2022). This suggests that we could use sanctions in ways that do not undermine and maybe even increase legitimacy.

An excellent example of this possibility is Weisburd's recent study on hot spots policing. In the study, police were concentrated in locations of high crime to increase surveillance but were also trained to use principles of procedural justice. As a result, crime declined and legitimacy increased (Weisburd et al. 2022).

This approach might be particularly useful in addressing one of the key problems of instrumental models: the lack of an end game. Deterrence focuses on crime suppression in an immediate moment. Because sanctions as traditionally implemented do not build legitimacy, they can never be removed. However, if sanctions can suppress immediate crime and can be implemented in ways that build legitimacy, then over time this approach does have a self-regulatory end point.

We can also move forward by reconsidering how to build upon the psychological underpinnings of procedural justice. Procedural justice involves decision making (voice, neutrality) and quality of treatment (respect, trustworthiness). Both matter, and they are typically intertwined. However, quality of treatment reflects relational motives because these indicators directly shape judgments about standing (inclusion) and status (recognition), which implicate people's feelings of self-worth and self-esteem. From a governance perspective, relational motives are valuable because authorities and institutions have considerable flexibility in the social messages they communicate.

Rosanvallon (2011) highlights the distinction between three types of procedure that might underlie government legitimacy: impartiality, reflexivity, and proximity. He describes the declining justification of legitimacy via neutral, impartial, fact-based decision making of the type consistent with professional management (impartiality) and through controlling government institutions to prevent corruption and abuse of authority (reflexivity).

At the same time, Rosanvallon suggests an increase in the public's desire for evidence that officials care about the public's everyday concerns and needs (proximity). A key issue to the public is whether they believe that the authorities care about everyday people and their problems. This highlights the potential for gains in legitimacy through a relational approach that emphasizes respect, caring, and concern (i.e., via proximity). As Rosanvallon (2011, p. 171) says,

> Citizens want to be listened to and reckoned with. They expect the government to be attentive to their problems and to show genuine concern with their everyday experiences. Everyone wants his or her particular situation to be taken into account, and no one wants to be subject of inflexible rules.

The relational character of these concerns is emphasized by Rosenvallon's linkage of such treatment to the desire for recognition and status affirmation when dealing with government, i.e., to concerns about identity, not outcomes.

The existence of relational motives suggests paths forward in the effort to reinvigorate legitimacy-based governance. One is to build legitimacy by emphasizing procedural justice. This is straightforward and based upon studies about the antecedents of legitimacy.

The other approach is to build identification with society so that people increasingly define procedural justice in relational terms (i.e., through a proximity framework). To care about social messages, people have to identify with a community or society. Any gains in identification both increase the role of relational judgments in shaping procedural justice and amplify the impact of seeing procedures as fairer on legitimacy and behavior. Ironically, many current reforms in the legal system, for example, online courts, privilege efficiency over particularized concern and evidence of caring (Mentovich et al. 2020, Susskind 2019). One path toward rebuilding legitimacy would be to reverse that focus.

A key challenge to this approach is that identification with the larger society need not be people's primary focus. People can care about a particular subgroup. Consider the example of gangs. For young people estranged from society, gang membership may be the primary focus of self-definition. To the degree that it is, their behavior will be responsive to the norms of that group (see Tostlebe & Pyrooz 2022). More broadly, strong subgroup identifications undermine the influence of any superordinate (overarching) shared authority (Huo & Tyler 2022).

## OTHER FORMS OF SOCIAL AUTHORITY

I focused on legitimacy in my own early work, but I also measured social norms, moral values, and ideology. Social norms are shared community feelings about what is appropriate and inappropriate, moral values are personal views about what is right and wrong, and ideology reflects liberal versus conservative policy views. I measured the degree to which respondents judge that their family/peers would disapprove if they broke a law (social norms), the degree to which they believe it would be morally wrong, and their political/social ideology. Each judgment correlates with rule-following behavior. In this expanded equation, considering these additional factors, both possible social disapproval and concern about violating one's moral values have a distinct role in shaping compliance. At that time, whether the respondent was liberal or conservative was not found to shape compliance. The key point is that other factors besides deterrence and legitimacy are related to compliance.

Given that these other factors shape compliance, another approach to social order maintenance would be to place a greater focus on these alternative forms of authority. Scholars clearly think this is true; the Ngram shown in **Figure 1** also finds increased scholarly attention being paid to social norms, moral values, and ideology in the social sciences in the period 1950–2020. Our concern is which forms of authority might be viable alternatives to legitimacy-based law and governance.

### Social Norms

In his book *The Force of Law*, Schauer (2015) argues for a central role for social norms in shaping compliance with the law. I initially expressed skepticism of this argument (Tyler 2016), but recent findings suggest that I should reevaluate my argument. Evidence highlights the potential power of social norms in shaping compliance. First, there is increasing evidence from experimental games that descriptive norm information can change people's behavior. Kraft-Todd et al. (2015, p. 96) found that social interventions based on "observability and descriptive norms. . .are highly effective," in contrast to strategies based upon manipulating costs and benefits, which have "at best mixed success" (also see Constantino et al. 2022).

In addition, recent studies on COVID in the United States show an important influence of social norms (Folmer et al. 2021). Perhaps the most striking case is Japan (Rich & Dooley 2022). This society has one of the world's lowest infection rates, without any government mandates. How can this happen? Behavior flows from peer pressure based upon shared norms. Further, social norms can function in a low-legitimacy environment. In Hong Kong (Ho et al. 2021), for example, the government lacked legitimacy but social norms enforced COVID mandates, leading to low infection rates.

Social norms focus our attention on the features of the community. Do people identify with a common community? Does that community have shared norms? Is there a shared sense of trust in other people? The already-mentioned *Lancet* cross-societal study included interpersonal trust (Dieleman 2022), suggesting that if all countries had the level of trust found in societies with the highest level of interpersonal trust, deaths from COVID would be 40% lower. It is striking to compare this figure of 40% linked to trust in other people to the previously noted 13% linked to trust in governmental authorities.

These findings point to the need to focus on building community as a project distinct from building government legitimacy. That proposal is similar to the argument underlying relational models of procedural justice: that the social connections between people and authorities matter, with the important relationship in this case being among the people in the community who both define and enforce standards of behavior.

The suggestion that it is important to focus on building communities and relying on the capacity to develop shared norms is consistent with the literature on community deliberation. That literature suggests that people have the capacity to avoid polarization and manipulation and make sound decisions about how to govern their communities if they deliberate together (Dryzek et al. 2019). Various models have identified procedures that communities can use to identify and develop a consensus on norms to manage themselves (Fishkin 2018, Ugarizza & Caluwaerts 2014).

We can go beyond that. Some theorists argue that norms have clear advantages for social order maintenance. Morris et al. (2015) suggest that norms are particularly flexible and open to change. A group can alter its views about what is appropriate, and its members will shift how they behave. Morris emphasizes the differences between social norms and moral values and argues that norms have clear advantages as a basis for societal dynamics because group norms can adapt more rapidly to changing conditions.

## Moral Values

Moral values have always influenced compliance. In fact, they are frequently found to be the strongest factor. This was true in my earlier work [Tyler 2006 (1990)] and has been found to be true in more recent studies as well. Morality's strong connection to behavior also emerges in broader reviews of the psychological literature (Ellemers et al. 2019).

The challenge of building a model of governance on moral values is that moral values form early and are resistant to change. One policy model, represented by the work of Robinson & Darley (1996), accepts that moral values are both powerful in impact and resistant to change. These authors suggest that, rather than trying to change values, law should be built around public morality and should primarily create rules where a moral consensus exists. These ideas build around a set of presumed consensus moral values that could guide law.

Societies in which almost all people share a common moral code benefit from the ability of moral values to compel behavior. If society limits its efforts to make overall rules to areas of moral agreement, this works well in situations of a shared code but not in others lacking such a consensus. Murder can be managed because moral values universally condemn murder. Abortion, for example, is a problem in the United States because there is strong moral disagreement about it (Pew Res. Cent. 2022). How can a society base rules on moral values when segments of the population hold different views about what is moral? Moral values are the best illustration of a pluralism dilemma. They strongly shape action. They are hard to reconcile and bridge across (Skitka et al. 2021). Presumably, societies in which almost all people share a common moral code benefit from the ability of moral values to compel behavior.

## Ideology

Early work on compliance did not focus on ideology, but ideology has emerged as important in more recent discussions about social order (Feldman & Johnston 2014, Hetherington & Weiler 2018). The general dimension considers conservative versus liberal perspectives. Traditional conservatives have a fixed orientation (social conformity/need for social control), and liberals have a fluid orientation (self-direction/focus on individual freedom). These orientations are related to but not the same thing as political party affiliation, with conservatives tending to be Republicans and liberals tending to be Democrats.

Those with fixed values are more likely to view legal authorities as legitimate, whereas those with fluid values are less likely to view legal authorities as legitimate. As far as compliance is concerned, the connection between legitimacy and compliance is identical in magnitude across ideologies. But, because conservatives view law as more legitimate, they comply more frequently.

The ironic implication is that we could better govern in the traditional way of focusing on securing compliance if society became more conservative—a potentially valid but not necessarily appealing conclusion.

In the case of COVID, the situation has become more complex. Conservatives are more likely to distrust science and experts and less likely to follow rules like mask wearing. Having a stronger orientation toward legitimacy in authority does not generalize across all forms of authority. In particular, beliefs in science have been polarized in the United States, and conservatives today view it as less legitimate than do liberals (Gauchat 2012).

Overall, building social order around moral values, social norms, or ideologies constitutes a viable alternative to trying to resurrect either instrumental or legitimacy-based models of social order. The potential losses of such a reconstitution are clear, in particular for the viability of a pluralistic society, but such an approach may nonetheless be worth considering in an era of diminished state resources and lower state legitimacy.

## HOW METHODOLOGY HAS SHAPED THINKING ABOUT AUTHORITY

In my early work, I used the then-prevalent approach of a regression analysis including all of the relevant factors that might influence compliance together in an overall equation. Recent studies have continued with this approach. The consequence of using this approach has been a focus on several issues. One is what factors shape compliance and should therefore be included in an equation. Elffers et al. (2003) identify up to 11 potentially relevant issues.

Because of the nature of regression analysis, the conclusions reached very much depend on which terms are included. Regression analyses look at independent contributions, so any shared variance is not reflected in the weight of the various terms. Consequently, something can look weak or strong depending on what other factors are in the equation. There have also been discussions about how those factors should be operationalized (i.e., what items to include to measure different concepts), for example, how to measure legitimacy, in terms of both what elements it should include and what items should reflect those elements (Hamm et al. 2022, Jackson & Bradford 2022, Tankebe 2013, Trinkner 2019).

Perhaps most importantly, the underlying assumption of these approaches is that there is some type of general overall model, i.e., one model that best explains what shapes behavior across all people and situations. Because of differences in what has actually been found to be important in different studies, it has become increasingly clear that what may be needed is a conditional or contingent approach that tailors authority to particular circumstances, i.e., a systematic approach to defining the conditions under which different forms of authority work. The early claim for deterrence and legitimacy was the promise of universality, but that may be unrealistic. Perhaps we need to create an approach in which we identify the conditions under which each model is valuable.

## CONTINGENT MODELS OF AUTHORITY

In thinking about what a contingent model of the factors shaping law-related behavior might involve, it is important to separate two potential frames. One is across societies. Models of this type link the form of authority that is most likely to be effective to structural features within which a society exists or to cultural values that define it. This approach implies that multiple forms of authority are best, each under distinct and identifiable conditions.

The second frame is to make distinctions within a society. As noted previously, societies are becoming increasingly polarized in terms of norms, values, and ideologies. Instead of searching for a model that can bridge these differences or one set of values to define an entire society, it

is also possible to identify subgroups and create different systems that are most effective within those subgroups.

## Distinguishing Between Different Types of Societies

As has been noted, even if sanctions are not delivered via procedural justice, there is evidence that sanctions can be important in shaping compliance under suitable conditions. Studies generally have not shown sanctions to be a strong factor in shaping behavior, but it has always been recognized that this is a defect not in the theoretical model but rather in a society's capacity to enact it. Like legitimacy, this model can work well when the correct conditions exist.

What conditions influence whether sanctions can be effective? Foremost is the ability to detect rule breaking (i.e., effective surveillance) combined with the capacity to apprehend and punish those who break rules. These are not trivial issues, particularly when a society is dealing with the widespread occurrence of rule-breaking behaviors, each of which is itself of minor consequence. In the case of COVID, for example, enforcing rules about mask wearing and social distancing is challenging.

COVID has shown the success of societies like Singapore that have been willing to enact strong measures for testing and tracking. They are using modern technology to make surveillance effective. This makes it clear that the surveillance state can enact viable deterrence models. More broadly, the rapid advances in surveillance capacity and the development of predictive analytics suggest that the means to manage social control through deterrence are increasing.

Several advances are important. The first is the ability to process information in real time to know how to allocate surveillance and enforcement resources (Chin & Lin 2022, Ferguson 2017). Further, advances in predictive analytics mean that authorities increasingly have the capacity to proactively identify people likely to commit a crime in the future and/or pinpoint where crimes will occur (Siegel 2016). Predictive analytics offer the possibility of the preemptive anticipation of future events. In the past, the large stream of surveillance data was largely stored and used reactively after an event to identify perpetrators. It was hard to scan content in real time. Advances in technology make real-time facial recognition feasible, and even democratic societies are building large banks of such data. At the same time, the rapid algorithmic scanning of text and images is improving quickly through the efforts of online platforms.

A parallel development is focused deterrence (Weisburd & Braga 2019). In the past, deterrence was directed broadly at the population. Focused deterrence concentrates on a small group. Instead of seeking to monitor entire communities, it is less resource intensive and more effective to target surveillance on problematic people and places. This is possible because problems can be anticipated.

We can imagine a contingency model in which the degree to which we focus on deterrence is linked to a society's capacity and willingness to create effective surveillance and sanctioning. The issue is no longer one of resource limits. It is related more strongly to willingness to engage in predictive policing. Why would a sanction-based model be desirable? The United States did not handle COVID well in terms of public compliance with mandates, as indexed by the fact that more people died in the United States than proportionally died in other societies. It is reasonable to ask when the approach of societies like Singapore, which had much lower rates of death, merits consideration.

The key point is that in the past the issue was always whether a society had sufficient resources to make deterrence possible. Increasingly, the issue is not feasibility but desirability. Is a society willing to make the types of privacy trade-offs that allow it to gather the data needed to engage in proactive targeting? Is a society willing to make decisions about a person based on actions that

person has not yet taken using an algorithm that predicts future behavior? If these actions are acceptable, then the technologies that make them possible exist.

A societal approach to a conditional model not only is based on differences in societies' willingness to adopt certain values but also develops theoretical models based upon societal conditions and predicts that particular forms of authority will work best under some conditions. Montesquieu provided an early example of this approach, arguing that features such as geographical size or climate made particular forms of government, such as democracy, especially suitable for some societies.

Recently, Gelfand (2018) adopted a contingency model using social norms. Her cross-cultural model suggests that the type of norms that will be effective and will therefore develop depends upon the conditions within which a society exists. Gelfand used a multicultural sample to distinguish two types of social norms: tight (strong norms and low tolerance for deviant behavior) and loose (weak norms and high tolerance for deviant behavior). Societies need tight social norms when they exist in a challenging environment and/or when they face external threat.

Gelfand argues that different systems of authority emerge under these different social structural characteristics. Tight norm groups have autocratic governing systems and a criminal justice system with higher monitoring and more severe punishment (e.g., the death penalty). They pay greater attention to deterrence and focus more on crime control. In other words, a tight norm culture is more likely to have a system emphasizing sanctioning and punishment. A loose culture is built more around voluntary deference and acceptance.

## Distinguishing Different Groups Within a Society

An alternative approach is to look within a society, but to distinguish systems based on the different types of values that subgroups of people have. Haidt's work on moral values provides an example (Graham et al. 2013, Haidt 2012). Haidt distinguishes among different content in people's moral values. Haidt argues that there is a difference between two broad models of moral values: individuating morality (a concern for care/harm, fairness) and binding morality (a concern for loyalty, authority, sanctity/purity). What matters is not whether you have moral values but which set you hold. He suggests that rather than changing moral values, authorities should frame arguments in terms of the values that people have, recognizing that not everyone in a society will have the same type of moral values.

The first implication of this distinction is that you can best motivate acceptance by crafting messages to fit a particular person's moral values. Studies support this by showing that arguments framed in terms of the listener's moral values are more persuasive. An example is climate change. To influence people with individuating morality, it is important to focus on harm to people. To influence people with binding morality, it is important to focus on the way climate change undermines the purity of nature.

This distinction among types of morality also has implications for the form of authority that generally works. For those with individuating morality, a focus on the fairness of legal procedures gains traction. For people with binding morality, a focus on the duty of loyalty and obedience to authorities will be more effective. Instead of trying to construct one system of authority that works for everyone, a society can best frame appeals to fit each person's morality.

We may want to similarly consider the use of a conditional model linked to people's ideology. People are motivated to accept rules if they are framed through an understanding of their ideology. Conservatives dislike change and like the status quo. Liberals are more open to change. With climate regulation and conservatives, we gain more if we present regulations as a way to preserve the status quo. For liberals, we get more traction if we present the same regulations as a way to change to meet evolving conditions (Feygina et al. 2010).

A general difference in orientation toward the law is also linked to ideology. Conservatives are oriented more strongly toward compliance and fit in a sanction-based model. Liberals are oriented toward willing acceptance and fit in a legitimacy-based system. This ideological difference is illustrated by examining how ideology shapes people's relationship to rules. Consider residents of the European Union (see T. Tyler, unpublished manuscript). There are two different orientations: one toward an obligation to comply and one toward a willingness to voluntarily cooperate with a system. When distinguished into two groups depending upon whether they have fixed (conservative) or fluid (liberal) ideologies, people with fixed ideologies complied more with laws but cooperated less with legal authorities and engaged less in their communities. Fluid ideologies, in contrast, lowered compliance with the law but increased cooperation and engagement. A similar study of Americans found that higher levels of conservatism were linked to higher levels of compliance with the law but to lower levels of cooperation and engagement (T. Tyler, unpublished manuscript).

The overall point is that efforts to manage social order may be most effective if we accept that no general model is going to be broadly effective. Instead, we should look either across societies, for features associated with particular approaches, or within societies, for features associated with particular types of people. In either case, a more complex model of social order is needed. No one model can be considered universal.

## CONCLUSION

The question of how to best organize society to maximize people's productive cooperation and minimize their destructive conflict has existed as long as people have lived together in groups, as has the appropriate role for formal rules, laws, and institutions in social organization. In the early twenty-first century, these issues have taken on urgency in the face of new challenges and with people increasingly dissatisfied with existing authorities and institutions and searching for new ways to address their political, economic, and social concerns. The situation highlights the irony that at the same time empirical research has demonstrated the efficacy and value of legitimacy-based governance, events have raised questions about whether it will continue to be a viable framework for pluralistic democracies, and what will happen if not. Will new forms of authority emerge that support democratic, pluralistic societies, or will the nature of societies change, for example, by becoming more autocratic or monistic?

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