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Anger and enforcement

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ABSTRACT

Observers who are angered by rule violations and punish violators often play a critical role in enforcement. Hence a key question is: when will noncompliance provoke anger, and when will it be excused? This paper develops a theory of rule compliance as the outcome of a two-person Bayesian game. The core of the model is its description of what constitutes an excuse. Noncompliance is excused when a "reasonable person" in similar circumstances would also have failed to comply. Phenomena explained include the role of "legitimacy" in enforcement; corruption traps; graduated sanctions for repeat offenders; and tolerance of self-interestedness in markets.

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1. Introduction

For organizations and societies to be successful and *thrive*, they must be able to enforce rules. Observers who are angered by rule violations and punish violators at a personal cost are often critical in rule enforcement. The punishment inflicted by these observers may be as simple as reporting offenses to authorities. Enforcement may be difficult – if not impossible – when observers excuse noncompliance (that is, when the cost of inflicting punishment is not *balanced* by a desire to do so). The question arises: when will rule violations be viewed as negligent, provoking anger and punishment, and when will they be excused?

In the law, the standard test of negligence is "the reasonable person test," which is defined as follows: "Negligence arises from doing an act that a reasonable person would not do under the circumstances, or from failing to do an act that a reasonable person would do."[1,2] This paper suggests that the reasonable person test is not only a principle of the law but, in fact, a basic feature of how people assess negligence. The paper builds a simple model in which agents use such a test to assign blame. It considers the implications for the enforcement of rules. In particular, the model captures two important enforcement problems that are previously unaccounted for theoretically.

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[1] Miller and Perry (2012), p. 2.

[2] According to Unikel (1992): "From its modest beginnings, 'reasonableness' has gained a prominent position in almost every area of American law. A general survey reveals that the concept of 'reasonableness' is a standard of decision making in administrative law, bailment law, constitutional law, contract law, criminal law, tort law, and the law of trusts." (p. 327).

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The model is a two-person, sequential-move game. The first player decides whether to comply with a rule, at a cost; the second player decides how much to punish him for any noncompliance, at a cost. I assume: (1) the first player could be of two types, one of which has a "sense of duty" to comply with the rule; and (2) the second player could be of two types, one of which holds that the first player has a duty to comply with the rule (or, put differently, defines a "reasonable" first player as one possessing a sense of duty). Critically, the second player is only angered by noncompliance if she thinks a "reasonable" first player would have complied in similar circumstances. Otherwise, noncompliance is excused.

In the model, anger over rule violations depends upon whether reasonable people are expected to comply; whether reasonable people comply depends, in turn, upon the anger over – and punishment of – violations. The paper characterizes the equilibria of this system. First, consider what equilibria look like when the second player feels there is a duty to comply, and defines a reasonable person accordingly. When the first player's cost of compliance is high, there is a unique equilibrium in which the first player fails to comply and the second player excuses noncompliance. When the first player's cost of compliance is low, there is a unique equilibrium in which the first player complies and the second player is angered by noncompliance.

When the cost of compliance takes an intermediate value, there are multiple equilibria. To illustrate, consider an example. Suppose there is a rule against corruption. There is the possibility of being in a good, low-corruption equilibrium. In this equilibrium, reasonable people are not corrupt; in consequence, corruption provokes anger and punishment; this threat of punishment sustains the low rate of corruption. But, there is also the possibility of being trapped in a high-corruption equilibrium. In this equilibrium, corruption is rampant, with even reasonable people (with a sense of duty) engaging in it; in consequence, it is excused; the lack of punishment sustains the high rate of corruption.

The possibility of a corruption trap, in which the endemic nature of corruption leads people to excuse it, is the first important enforcement problem identified by the paper. This result is consistent with a large empirical literature on corruption (see especially Collier, 2000 and Rose-Ackerman, 2001). There are, in fact, a number of other "noncompliance traps" that have been documented.

The paper identifies a second enforcement problem that is, perhaps, even more fundamental. If the second player feels there is no duty to comply – and defines a reasonable person accordingly – there is a unique equilibrium with the property that noncompliance is always excused. It follows that absence of sense of duty to follow rules presents a serious challenge to enforcement. If the first player lacks a sense of duty to comply, he complies only to avoid punishment; if the second player feels there is no duty to comply, she excuses noncompliance and hence inflicts no punishment.

This finding relates to a large body of work outside of economics, on "legitimacy." By common definition, a rule is "legitimate" if there is a widespread feeling that there is a duty to comply. Complete lack of legitimacy thus corresponds to the case in the model where neither player feels there is a duty to comply. Blau (1964) argues that rules will be disobeyed in the absence of legitimacy because "coercive use of power engenders resistance." [3] That resistance, according to Ostrom (1990), is commonly manifested in reluctance to report violations to authorities. Violations are not reported because they are excused. In consequence, "the legitimacy of rules. . .will reduce the costs of monitoring, and [its] absence will increase [the] costs."[4] Later in the paper, we will consider a number of examples where enforcement problems arise from lack of legitimacy. They suggest that the need to legitimate rules serves as a constraint; this constraint often has large effects on the way in which organizations are structured.

The model yields a theory of anger as well as a theory of rule enforceability. It makes several predictions regarding anger and punishment. First, as I have already indicated in passing, anger depends upon the cost of compliance. A high cost of compliance serves as an excuse for breaking a rule. This result is intuitive. It is also consistent with survey evidence from Kahneman et al. (1986). They found, for example, that 68 percent of survey respondents excused a company for reducing wages when it was losing money; and 75 percent excused a landlord for raising the rent on a property when the landlord's costs increased, even though increasing the rent meant the current tenant would be forced to move.[5]

Provided the second player does not know the first player's cost of compliance, anger-over-noncompliance depends upon beliefs about the first player's type. The logic is as follows. Upon observing noncompliance, player 2 is uncertain whether there is a good excuse (the cost of compliance is high) or player 1 is just unreasonable. Player 2's prior on player 1's type affects the weight she puts on there being a good excuse. This result explains the empirical finding that anger escalates with repeated noncompliance (since repeated noncompliance is likely to signal that a person lacks a sense of duty).[6]

Finally, it has been observed that anger is contextual. For instance, there is typically a high degree of tolerance of self-interested behavior in markets. Sen (1977) has seen this as a puzzle, given people's strong concerns for fairness in other settings. The model accounts for the high tolerance of self-interested behavior in markets. This is explained as being due to context-specific definitions of what is reasonable.

[3] Blau (1964), pp. 199–200.

[4] Ostrom (1990), p. 204.

[5] A high cost of compliance is similarly seen as a valid excuse in courts of law, for which there are many legal precedents. The case of United States v. Carroll Towing Company is an important precedent in the use of the reasonable person test. The case concerned a barge that broke adrift, collided with a tanker, and sank. In assessing whether there was negligence on the part of the barge owner, Judge Learned Hand tried to determine what a reasonable person would have done. He decided, in particular, that what a reasonable person would be expected to do depended upon the cost of taking precautions.

[6] See the discussion of Kliemann et al. (2008) in Section 5.

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