

Social Norms and the Law: Why Peoples Obey the Law

Amir N. Licht*

Radzyner School of Law, Interdisciplinary Center Herzliya, Israel

Tel: 972 9 952 7332; Fax: 952 9 951 3323; E-mail: alicht@idc.ac.il

Abstract

This paper explores the relations between law and social norms and in particular, the case of legal compliance in groups. Specifically, this paper argues that the rule of law is a social norm interfacing the formal institutions of society with the informal ones. As social institutions, norms should also be analyzed at the societal level – a level of analysis that neo-classical economic accounts have failed to address due to fundamental premises of current economic theory. Theories developed in psychology provide a good working framework for social norm analysis in general and of legal compliance (rule of law) in particular. Extant evidence is consistent with the present argument.

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1. INTRODUCTION

“Buckle up. It's the law,” say the roadside signs along many highways. State transportation officials apparently believe that the statement “It's the law” will motivate drivers and passengers to buckle up. But why? For one, such signs may be posted as a deterrence measure – a threat – to provide information about potential legal liability. Yet this does not seem to be their primary role.¹ More likely, the designers of seat-belt campaigns consider this message to be morally persuasive. “It's the law” here essentially means “It's the right thing.” The suasion factor is especially evident when this message is not directed to adults, e.g., when the Washington Traffic Safety Commission directs this message to children. In information fliers produced in 14 different languages, parents are advised to persuade their children to buckle up, first, because “it's the law” and (only) second, because “I love you and want to protect you” (Washington Traffic Safety Commission, 2004).

These seat belt campaigns capture the gist of contemporary debates on social norms and the law. Many legal scholars, primarily in law and economics, have shown interest in the relations between social norms and the law in recent years. Ellickson's (1986; 1991) study of extra-legal norms among Shasta County ranchers marks the inception of this renewed interest in social norms. To be sure, the insight that people's practice may, and often does, depart significantly from what the law says is not new (e.g., Macaulay, 1963; Macniel, 1978). What is new is the effort to identify the mechanisms that may be driving these social phenomena. Norms against littering in public places are the standard example for beneficial social norms in this literature.²

¹ See Goehring (1999) on a plan to encourage seat belt use by passing laws to let officers pull over unbelted drivers. In most states, not using a seat belt is not a primary offense, however; i.e., it does not authorize police officers to pull a driver over when they notice that she is not wearing a seat belt.

² This example is inspired by a series of studies led by Robert Cialdini. See below.

Cooter (1996a: 1675) suggested Berkeley's pooper-scooper ordinance as a case in point for harnessing the law to engender such norms. Together with other scholars, Ellickson (2001: 39) conjectures that "the ordinance might embolden a pedestrian to chastise an irresponsible dog owner because the pedestrian could now say, 'Clean up. It's the law.'" (for similar propositions see Sunstein, 1996: 2023; Scott, 2000: 1603).

Like the seat-belt campaign, the pooper-scooper hypothetical hinges on the notion that people in the community share a general respect for the law. After all, if the law played a negligible role in guiding the dog owner's behavior she may well miss, or dismiss, the suasive element in the pedestrian's admonition. One wonders, however, whether "it's the law" sounds as persuasive to speakers of Spanish, Russian, or Chinese as it does to English-speakers. This question is the focus of this paper.

Tyler's (1990) seminal study *Why People Obey the Law* made a significant contribution toward understanding legal compliance. Using interviews with people who appeared before judges in traffic courts in Chicago, Illinois, Tyler has shown that people are more likely to uphold legal injunctions at a personal cost, when they perceive the process that yielded such injunctions as fair. Subjects gave particular importance to having an opportunity to participate and provide input, the neutrality of procedure, and being treated with dignity, respect, and honesty (see also Tyler and Lind, 1992; Tyler, 1997). Tyler's account thus points to the importance of non-pecuniary considerations when law-abidingness is at stake.

Tyler's theory and current theories in law and economics (see below) are limited to the individual level of analysis. That is, they deal with mechanisms that may incentivize individual persons to obey the law. These theories don't tell us why *peoples* (rather than people) and other distinct social groups follow the law to a greater or lesser extent. This paper takes up this challenge as it advances a theory of

legal compliance at the societal level of analysis. To this end, I integrate insights from New Institutional Economics and from cross-cultural psychology.

That economic accounts of norm compliance are limited to individual behavior is not an accident, I argue. Rather, it stems from shortcomings of neo-classical economics in dealing with societal preferences. Economic models anchored in (individual) rational choice analysis can account for a great deal of uniformity in people's behavior – e.g., herd behavior. Yet such models do not apply to groups per se – e.g., what groups emphasize, endorse, etc. Psychological theories of cultural value dimensions hold a key for understanding social norms as they enable one to deal with conceptions of the desirable at the societal level and with the notion of societal preferences. These theories further suggest means for empirical testing of social norms theories. By drawing on these theories, this article goes beyond extant law and economics accounts of social norms without merely offering “just so stories.”

Social norms specify behaviors that are seen as desirable or legitimate in the shared view of societal members and whose violation elicits at least informal disapproval. The concept of systemic consistency in New Institutional Economics suggests that specific social norms – those addressing specific life-contexts – would be conceptually compatible with broad, a-contextual societal conceptions of what is right and desirable – namely, with cultural orientations. I argue that legal compliance is a social norm that functions as an interface between the informal norm system and the formal (legal) norm system. This is the rule-of-law social norm – a norm that calls on people seeking guidance about the right behavior to prefer legal rules over tradition, elderly people's advice, or superiors' command.

The rule-of-law norm is consistent with cultural values of individual autonomy and egalitarianism; it is less consistent with cultural views of the individual as an

entity embedded in a tight social fabric and with societal emphases on hierarchical ordering. People in societies that exhibit the former orientations, autonomy and egalitarianism, are more likely also to consider the statement ‘it’s the law’ morally persuasive. Such societal preferences thus support voluntary compliance with the law. People in other societies, however, may respond to this statement with a shrug or even resent it.

The paper proceeds as follows. Part 2 briefly looks at economic accounts of social norms and argues that they fail to consider the societal level of analysis because modern economics is firmly rooted in individual choice. Part 3 offers a glimpse into current theories of values and cultural orientations in psychology. Part 4 links culture, norms, and the law, arguing that systemic consistency of institutions implies both content consistency between norms and laws and functional consistency of the law as a social institution. In particular, this part argues that the rule of law is a social norm that interfaces the formal and informal institutions of society; it also surveys the evidence in support of this argument. Part 5 concludes.

2. ECONOMIC APPROACHES TO SOCIAL NORMS AND THEIR LIMITS

2.1. DEFINITIONS

Standard economic analyses are predicated on individual incentives. In the case of law-abidingness these incentives most often refer to deterrence (e.g., Becker, 1968; R. Posner, 1985; Shavell, 1985). When law enforcement is not forthcoming, the cost side of the individual’s calculus is nil. Legal compliance, when one is better off not complying, then becomes a puzzle. In fact, legal compliance is only a particular case of behavioral regularities that lack an apparent incentive structure supporting them. Such regularities are often called “norms.” A common lament in the norms literature

is that this term is not well-defined and overly confused.³ Commentators have advanced several categories of social norms (e.g., Axelrod, 1986; Sugden, 1989; Elster, 1989). Basu (1998: 476) distinguishes three classes of norms: ‘rationality-limiting,’ ‘preference-changing,’ and ‘equilibrium-selection norms,’ while noting that “[m]ost existing definitions are suggestive rather than exact.” But as Basu also notes, it is unclear whether these categories are mutually exclusive or exhaustive of the social norm concept. In a recent survey, McAdams and Rasmusen (2007) define norms as behavioral regularities supported at least in part by normative attitudes, where the latter contribute to stability by creating normative incentives: guilt, esteem, shame. They refer to behavioral regularities that lack such normative attitudes as “conventions.”

2.2. INTERESTING AND UNINTERESTING NORMS

McAdams and Rasmusen’s categories point to a fundamental distinction between types of behavioral regularities according to the source of incentives for compliance. Kreps (1997) thus distinguishes intrinsic motivations from extrinsic incentives as potential factors giving rise to social norms. Similar distinctions have been advanced in various forms by other writers (e.g., Sugden 1998: 73-74; Korobkin and Ulen, 2000: 1129-30; Rachlinski, 2000: 1540).

The mechanisms producing such incentives may be quite complex. For instance, Eric Posner (1998; 2000) draws on signaling models⁴ to argue that people

³ E.g., Scott (2000: 1607) (“[T]he academic debate currently suffers from conceptual pluralism and terminological disarray. Indeed, we lack even a basic consensus on the proper definition of a social norm. This tower of Babel quality is, in part, a reflection of the complexity of the social phenomena that we are seeking to understand.”); Hechter and Opp (2001: *xiii*) (“As there is no common definition of social norms, there can be little agreement about how to measure them... Much less clear, however, are the conditions responsible for their emergence.”).

⁴ See, generally, Bernheim (1994); Sugden (1998); Dufwenberg and Lundholm (2001); Lindbeck et al. (1997).

comply with social norms as a costly, and therefore credible, signal that they are trustworthy partners for economic and social interaction. Bikhchadani, Hirschleifer, and Welch (1992) propose that norm conformity may result from economizing on information search costs. If information is costly it may be rational to follow others on the assumption that there is a positive probability that they got it right. This is how herd behavior may ensue, these authors argue, why fads come and go, and why “Americans act American, Germans act German, and Indians act Indian.” (pp. 992-993). Kuran and Sunstein (1999) argue that informational and reputational cascades may engender social belief formation. These authors aver that in “availability cascades,” people follow others’ behavior because they treat this available information as an indication to its reliability. People conform – i.e., they adjust their behavior in line with others’ – to maintain their social reputation.

Behavioral regularities incentivized by external motivations are not truly interesting, however. Such norms do not pose a puzzle because in the end, norm compliance is in one’s self-interest. Proponents of this approach to social norms analysis generally argue that social norms can be explained without reliance on psychological theories of non-selfish motivations.⁵ To various degrees, these commentators aver that self-interest, when properly considered, can provide sufficient basis for the emergence and maintenance of social norms. Under the signaling paradigm, it pays to comply with norms because compliance serves as a mechanism for generating future income through reputation. Under the cascades paradigm, compliance is simply a cheaper guide for social behavior as it economizes on

⁵ E. Posner (1996: 1709-1710) thus argued that no psychological theory is available that could explain compliance with or deviance from social norms. Kuran and Sunstein (1999), however, do rely on the availability heuristic from cognitive psychology.

information costs. We will see, however, that even this account of social norms is lacking and calls for a societal-level analysis.

Social norms become truly interesting when compliance cannot be accounted for by standard economic incentives of self-utility maximization. (Compliance may come either as obeying the norm's injunction or as imposing sanctions on deviants – both at a cost to the complying agent.) Tirole (1996: 4) thus opines that the main challenge to economic modeling of norms is that unlike conventions (habits of convenience) norm behavior need not be in one's self-interest. That people regularly engage in costly behavior in order to uphold certain ethical principles such as equality or fairness or to promote other people's interests is not much in dispute any more (see Camerer and Fehr, 2006; Rabin, 2002). The debate in economics today revolves around the precise ways in which actors incorporate others' utility into their own utility function.⁶ These other-regarding preferences⁷ indicate that people may also engage in costly compliance with norms dealing with other issues, primary among which is law-abidingness.

In discussing possible factors that motivate people to comply with social norms writers refer to guilt and pride, esteem and disapproval, and shame. These mechanisms share a common element – namely, they are triggered by “normative

⁶ See Fehr and Schmidt (1999) (introducing a model of inequality aversion); Charness and Rabin (2002) (a model of fairness). Note that accounting for others' utility in one's own utility in order to preserve the premise of rationality brings the notion of rationality to the verge of tautology. See, e.g., R. Posner (2003: 17) (“Rationality means little more to an economist than a disposition to choose, consciously or unconsciously, an apt means to whatever ends the chooser happens to have.”); Kaplow and Shavell (2002:18; 465) (the notion of “well-being... incorporates in a positive way everything that an individual might value.”; well-being is “all-encompassing (and thus not limited to wealth or other tangible elements).”)

⁷ Many economic discussions confusingly employ “social preferences” to denote “other-regarding preferences.” This usage intermixes preferences of individuals with regard to other members of society with preferences of social groups. At the following discussion clarifies, the latter type of preferences is highly problematic from an economic perspective if not utterly denied. Yet this is not the case from the perspective of psychology or other social sciences even if one prefers not to ascribe faculties of choice, tastes, and preferences to social groups.

attitudes” that belong in one’s utility function (see McAdams and Rasmusen, 2007 for a review). Hence the reference to intrinsic or internal motivations for norm compliance. Several economists have conjectured about the origins of these mechanisms, however. For example, Binmore (1998: 114) considers other-regarding preferences (in particular, Rawlsian-type fairness preferences) “held by individuals in a particular society as an artefact of their upbringing.” Binmore surmises generally that children acquire such preferences unconsciously and later use a distilled version of this “preference-belief model” as yardsticks for assessing future situations. Kaplow and Shavell (2001; see also Kaplow and Shavell, 2002), in their model of moral rules and moral sentiments, similarly assume that “[i]ndividuals are subject to a process of inculcation such that they will experience guilt or virtue as a function of the choices they make...” Among the scholars adopting an internal approach to norm compliance, Cooter is the most explicit in drawing on psychological theories to explain how people may internalize normative obligations. Cooter cites theories on early childhood development of such iconic psychologists as Piaget, Kohlberg, and Freud.⁸ Notwithstanding possible critiques of these theories,⁹ the common assumption is that children acquire most of their normative preferences at a young age (see McAdams and Rasmusen, 2007).

2.3. KNOWING THE RULES OF THE GAME

Consider a striking feature of the social norms literature – namely, the equal treatment given to norms that are profoundly different in importance and prevalence. Conducts like dueling, flag desecration, and racial discrimination are considered representative

⁸ Cooter makes these references repeatedly. See, e.g., Cooter (1996: 1661-62) (citing Piaget (1965); Kohlberg (1981); Freud 1962)).

of social norms as are cleaning after one's dog, smoking in public places, or bringing cookies to faculty seminars.¹⁰ Similar incentive mechanisms may be at work when such norms exert their influence on individuals (i.e., shame, guilt, pride, etc.). Yet most will agree that a sound theory of social norms should be able to distinguish between lighting a cigar in a dinner party and burning a cross on an African-American's front lawn.¹¹ Extant theories fail this task because they only consider compliance or deviance as triggers of normative incentives, while failing to account for the content meaning of the behavior. If norm compliance is merely a cascade process triggered by a norm entrepreneur (Kuran and Sunstein 1999; Ellickson 2001) then, like all fads, its content is insignificant.

Social norms theories subscribing to the internal approach assign a role to psychological processes that shape individuals' utility functions. These theories too say little about the content of such utility functions. As noted, economists have paid considerable attention mostly to other-regarding preferences. Such preferences do not exhaust the range of arguments in one's utility function. Nor do ethical/moral principles. This deficiency in current theories is not benign. An implicit premise underlying these theories is that people are capable of assessing the conceptual compatibility between particular behaviors and abstract principles relatively consistently – both across situations and across individuals. People must be able to agree whether or not one's behavior is in line with a shared principle. Such capacity is

⁹ Many modern psychologists may object to taking Freud at face value. Some of the ideas expressed by Kohlberg likewise have been criticized in light of feminist theories. See Gilligan (1982). Etzioni (2000) is even more critical of Kohlberg's work.

¹⁰ See, Lessig (1995) (dueling); E. Posner (1998: 780-81) (flag desecration); Scott (2000: 1608-09) ("pooper scooper" norms); Ellickson (2001) (racial discrimination, smoking, and "pooper-scooper" norms); Cooter (1997: 977) (smoking in public and "pooper scooper" norms); Mitchell (1999: 177) (bringing cookies).

crucial both for the actor and for societal members around her in order meaningfully to plan their behavior and responses. Upon perusal, moreover, social norms theories based on the external incentive approach also necessitate a mechanism for making certain points focal or inducing equilibria in some non-random manner.

Societal members must know in advance, with some confidence, whether the behavior they plan or observe is appropriate. To this end, they must share the information about what is good, right, or legitimate in the society. Among the numerous, and possibly conflicting, guiding principles, people must know which principles are more cherished than others in their particular social environment (see Binmore, 1998). People must know the rules of the game. But how this information comes about is unclear from extant theories beyond vague references to culture.¹²

2.4.LEVELS OF ANALYSIS: THE PROBLEM OF SOCIETAL PREFERENCES

My submission is that the current economic literature on social norms suffers from a structural weakness in that it focuses solely on the individual level of analysis, while failing to account for the societal level of analysis. Current theories consequently fail to address what may be the dominant factors affecting the emergence and evolution of social norms, including legal compliance.

In a seminal economic treatise on social institutions, North (1990) defines the basic premise of his project, which is now the project of New Institutional Economics:

Defining institutions as the constraints that individuals impose on themselves makes the definition complementary to the choice theoretic approach of neoclassical economic theory. Building a theory of institutions on the foundation of individual

¹¹ See Ellickson (2001) (using cigar example); Lessig (1998: 684) (using cross burning example).

¹² See, e.g., Kaplow and Shavell (2001: 27) (“The possibility of inculcation, moreover, is important in attempting to explain cross-cultural variation in moral rules.”)

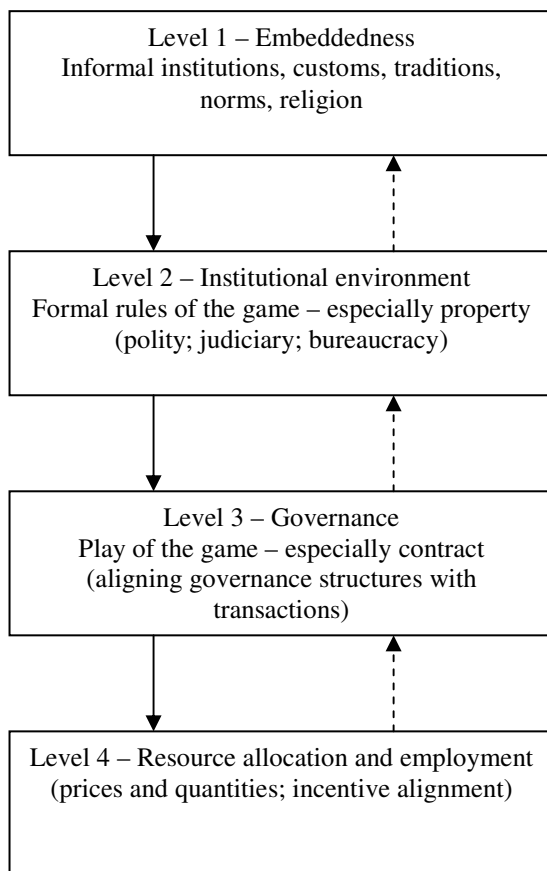
choice is a step toward reconciling differences between economics and the other social sciences. *The choice theoretic approach is essential* because a logically consistent, potentially testable set of hypotheses must be built on a theory of human behavior. The strength of microeconomic theory is that it is constructed on the basis of *assumptions about individual human behavior...* Institutions are a creation of human beings. They evolve and are altered by human beings; hence *our theory must begin with the individual*. At the same time, the constraints that institutions impose on individual choices are pervasive. Integrating individual choices with the constraints institutions impose on choice sets is a major step toward unifying social science research (p. 5; emphases added).

My humble contention is that North and the economic literature that follows the same logic are incomplete. The “strength of microeconomic theory” in that “it is constructed on the basis of assumptions about individual human behavior” is also its weakness. To see why, one needs to consider first why “theory must begin with the individual,” as North argues, and why this is not enough.

In what has become the canonical definition of social institutions in economics, North (1990: 3) states: “Institutions are the rules of the game in a society or, more formally, are the humanly devised constraints that shape human interaction.” Williamson (2000) has elaborated this notion with a model of stratified social institutions. Williamson’s model distinguishes four levels of analysis. “Level 1” consists of informal institutions.¹³ This is where norms, customs, mores, and traditions are located and where religion plays a role. Level 2, located below Level 1, consists of formal legal rules, comprising constitutions, law, property rights, etc. Governance structures (e.g., in firms and social networks) and marginal analysis (e.g., of economic

outcomes and prices) belong to Levels 3 and 4, respectively. In this model, higher levels impose constraints on the development of the levels immediately below. Figure 1 describes graphically the four levels, causal links (represented by solid arrows), and feedback links (represented by dashed arrows). Although the system is fully interconnected, Williamson does not discuss feedback among levels.

Figure 1. The Williamson Model of Social Institutions



Based on Williamson (2000).

The present analysis deals with the informal institutions located at Level 1 and their relations with formal institutions at Level 2. According to Williamson (2000: 596),

¹³ Williamson (2000) identifies Level 1 with the notion of “embeddedness” proposed by Granovetter (1985). Both concepts must not be confused with the cultural orientation of embeddedness identified by Schwartz (1999) that is discussed below.

“Level 1 is taken as given by most institutional economists.” He further postulates that Level 1 informal institutions are "pervasively linked with complementary institutions," both formal and informal (p. 597). The resulting institutions “have a lasting grip on the way a society conducts itself.” (p. 597).

We now come closer to the crux of the matter. If, as North holds, institutions are “the constraints that individuals impose on themselves” then our next question must be how do individuals choose which institutions to impose upon themselves? The crucial point here is that this choice decision is a group choice, not an individual choice. “Individuals” must be in the plural. Only after a group of individuals has made its “choice” can a particular individual make her move and choose whether to comply or deviate. New Institutional Economics tells us that individuals may find it in their self-interest to impose constraints upon themselves. This theory does not tell us how groups select the constraints that they offer their members to choose from. Specifically, before one could decide whether to follow or deviate from a social norm, the society in which one lives must have settled on which behavioral regularities are normative, i.e., socially approved. An individual imposing on herself a constraint that is not socially valued would be acting foolishly, not just irrationally.

A sound theory of social norms thus should address two levels of decision and choice: the individual level and the societal (or group) level. Current theory addresses only the individual level, however. But why? The above excerpt from North (1990) shows that the omission of the societal level of analysis is not an accident. North emphasizes that he seeks to anchor the theory of social institutions in individual choice because this would link this theory to the entire body of neoclassical economics.

And here's the rub: Social norms imply societal preferences – what society as a whole emphasizes or denounces. Neo-classical economics, however, does not deal with the societal level of analysis in what regards preferences and choices. The notion of societal preferences is hard to grapple with ever since Arrow (1951/1963) expounded his impossibility theorem. Arrow's theorem puts a hurdle on the way to aggregating individual preferences into coherent societal ones.¹⁴ Often cited in connection with voting system design, Arrow's theorem says that any rule of aggregation has to violate some conditions that are fundamentally important from the normative point of view.¹⁵ Some scholars, like Buchanan, consider this hurdle insurmountable.¹⁶ The work of yet another Nobel laureate, Amartya Sen, formally deals with the necessity to “bring in something outside individual choice behavior in order to determine whether a particular behavior pattern is or is not consistent.” (Sen, 1993: 498). Sen notes in this regard that “we cannot easily invoke some immediate notion of society's ‘preferences’, or some transparent properties of ‘social utility’...” (498). This is why North seeks the foundation of individual choice for his institutional theory. Lewin (1996) traces this problem, which is also dubbed “Sen's paradox,” to the historical roots of the relations between economics and psychology during early 20th Century (see Rabin, 1998 for an influential review).

¹⁴ To illustrate the outcome of Arrow's theorem, without elaboration of its conditions, consider the following setting, also known as Condorcet's paradox: Three individuals, A, B, and C, need to choose one out of three alternatives, x , y and z . Suppose individual A prefers x to y to z , individual B prefers y to z to x , and individual C prefers z to x to y . Under the standard majority rule, there are majorities of two out of three for x against y , for y against z , and for z against x – in other words, a cycle. This cyclic outcome implies that the group cannot make a coherent collective (social) choice.

¹⁵ Arrow's theorem has spawned a large literature that on the one hand generalized its result and on the other hand pointed out the extent to which this result hinges on these minimal conditions. For a short discussion, see Arrow (1987).

¹⁶ See Buchanan (1975) (discussing Arrow's Nobel Prize lecture, arguing that it is not possible to cross the bridge from individual preferences). For further general analyses, see Mueller (1989); Przeworski (1991).

The upshot is that economists have been reluctant to rely on culture and social norms as a possible explanatory variable (Guiso et al., 2006). Economic analyses of culture tend to focus on mechanical aspects of this concept—mainly cascade mechanisms for dissemination of behavioral regularities (Cozzi, 1998; Bikhchadani et al., 1992; Kuran, 1998). As noted above, these mechanisms are predicated on individual self-interest. When it comes to substantive analysis – to content – certain economists use some of the terms mentioned below to describe cultures such as individualism, collectivism, or egalitarianism (see, respectively, Greif, 1994; Dutta and Ray, 1989; see also Cooter and Landa, 1984). Yet because of Sen’s paradox, what these researchers usually consider as cultural beliefs or values are actually individual-level other-regarding preferences (see also Elster, 2000; Greif and Laitin, 2004). Only recently did economists begin to address narrow aspects of culture in the meaning this term is used in psychology (and in this article), namely, the set of socially shared values, symbols, and beliefs (see Guiso et al., 2006; see also Bowles, 1998).

Be it as it may, societies must develop institutions, primarily informal ones, in order to regulate human activity and establish social order. Societies (and groups in general) obviously do not “prefer” or “choose” in the meaning these terms are used with regard to individuals’ preferences or choices. Societies do not have desires or minds other than metaphorically. More fundamentally, as societies are not living organisms they face different challenges to their existence and development. Individuals have biological and emotional needs; societies do not. However, societies have to accommodate individuals’ needs. Societies have organizational needs; individuals do not. However, individuals have to navigate within societal organizations. Consequently, the issues that societies must resolve are related to but are conceptually separate from the issues that individuals face (see Schwartz, 1994 for

further analysis). In terms of institutions, societies set the rules of the game; individuals play by these rules. This gives rise to the two levels of analysis.

3. PSYCHOLOGICAL THEORIES OF NORMS AND VALUES

While economics has failed to address the societal level as such, other social sciences have made progress on this front, to which this section turns. The study of norms and values in psychology tackles the very issue that lies at the heart of social norm analysis – namely, the nature and structure of societal preferences. In psychology, societal preferences are not assumed away. They are given content and structure. The challenge is to provide an analytical framework that would link social norms with other social phenomena without resorting either to tautologies or to idiosyncratic “thick descriptions” (Geertz, 1973: 26-28). Accounts of this sort, while intriguing, are susceptible to the critique that they are, at bottom, “just so stories.”¹⁷ By drawing on the concept of values, current theories in this discipline connect individual-level motivations with societal-level orientations and suggest means with which to measure them. This part provides a summary review of current theories as a basis for subsequent analysis.

3.1. DEFINITIONS

The standard definition of social norms in social psychology considers norms as understood rules for accepted and expected behavior (Myers, 1999; Miller, 1996).

¹⁷ See Elster (2000) (criticizing Bates et al.'s (1998) Analytical Narrative Project, among other things, for relying on “just so stories” while failing to account for high level of aggregation and for intentions and beliefs); but see also Hechter and Opp (1998: *xix*) (“Jon Elster... argues that the regulatory power of norms is fundamentally emotional. Consequently, the best evidence about emotions, he claims, is to be found in works of history, anthropology, fiction, and philosophy. It is doubtful, however, that these sources of evidence can contribute much to an analysis of social norms. More likely, the kinds of evidence that can be garnered from anthropologists’ and novelists’ thick description lead to the “just-so stories” that Elster so frequently disparages in many of his other writings.”) For a rejoinder to Elster’s critique, see Bates et al. (2000). A notable exception to the anecdotal character of many legal accounts is Kahan and Braman (2003) (using survey data to statistically analyze attitudes toward gun-control laws).

Contemporary analyses distinguish between two major categories of norms: *descriptive norms*, which describe what most others do in a situation, and *injunctive norms*, which describe what most others approve or disapprove there (Cialdini and Trost, 1998). A series of studies on littering in public places conducted by Cialdini, Reno, and Kallgren demonstrated the power of injunctive norms to affect individual behavior (Cialdini et al., 1990; 1991; Reno et al., 1993). Psychologists have pointed to different sources for compliance with social norms, varying from general societal expectations for one's behavior to one's own expectations for one's behavior (Pepitone, 1976; Schwartz, 1977; see Cialdini and Trost, 1998 for a review). These insights are largely in line with the economic/law-and-economic theories described above. Psychologists, however, have made progress in analyzing structural linkages among particular social norms by drawing on values.

3.2. VALUES

The core concept in the present discussion is values.¹⁸ Values are defined as conceptions of the desirable, featuring at both the individual and the societal levels of analysis. "At the individual level, values are internalized social representations or moral beliefs that people appeal to as the ultimate rationale for their actions...At the group level, values are scripts or cultural ideals held in common by members of a group; the group's 'social mind.'" (Oyserman, 2000: 16151; see generally Kluckhohn, 1951; Rokeach, 1973; Schwartz, 1992). For the present purposes, we are interested in preferences, emphases, and orientations that are shared by the societal group as a whole and how they interact with formal social institutions, namely, the law.

¹⁸ This section draws on Schwartz (1999); see also Smith et al. (2006).

For individuals, values constitute motivational goals – the guiding principles in one’s life. As beliefs, values are not objective, cold ideas. Rather, when values are activated (at the individual level), they become infused with feeling. Behavior in compliance with the values endorsed by an individual person would elicit a sense of virtue; deviant behavior would elicit a sense of guilt. Thus, values, when activated, induce normative – i.e., conceptually compatible – behavior, although the path from value preferences to action is not direct (see Schwartz, 2009a for a review; see Licht, 2009 for implications to economics and law).

Values also play a role at the societal level of analysis. Social scientists often define culture in subjective terms as the values, orientations and underlying assumptions that are prevalent among the members of a society. Values are the essence of culture seen this way. The values that constitute a culture are the implicitly or explicitly shared, abstract ideas about what is good, right, and desirable in a society. Values are the vocabulary of socially approved goals used to motivate action and to express and justify the solutions chosen (see Schwartz, 1999; 2009b).

3.3.CULTURAL ORIENTATIONS

A common postulate in cross-cultural psychology is that all societies confront similar basic issues or problems when they come to regulate human activity (Kluckhohn and Strodtbeck, 1961; Rokeach, 1973). Societies’ responses to these basic issues constitute their fundamental institutions. Another postulate, similar to the central insight of institutional economics, holds that as a general social institution, culture affects numerous factors including individual value preferences and beliefs. Psychological models of culture go beyond current economic accounts in identifying these key issues and observing the differential impacts of societal responses to these issues on psychological factors. Since the classic definition of culture highlights

shared values (Kroeber and Kluckhohn, 1952), most mappings of cultures have used values to derive cultural profiles. Such theories characterize each society by the relative importance attributed to these values in the society. This cultural-level analysis yields unique cultural profiles.

The cultural theory put forward in the present study was created by Schwartz (1999; 2004). This theory identifies three key issues societies must address and derives three corresponding bipolar dimensions for societal-level, cross-cultural analysis. In coping with these issues, societies exhibit greater or lesser emphasis on the values at one or the other pole of each dimension. Seven societal orientations (types of values)¹⁹ on which cultures can be compared derive from the analysis of the bipolar dimensions. The theory also specifies the structure of relations among these orientations. Table 1 describes these three value dimensions, the seven orientations, and the basic issues to which they relate. Figure 2 presents graphically the relations among the value dimensions and orientations as well as values that are prominent in each orientation.

Table 1. The Schwartz Cultural Value Dimensions

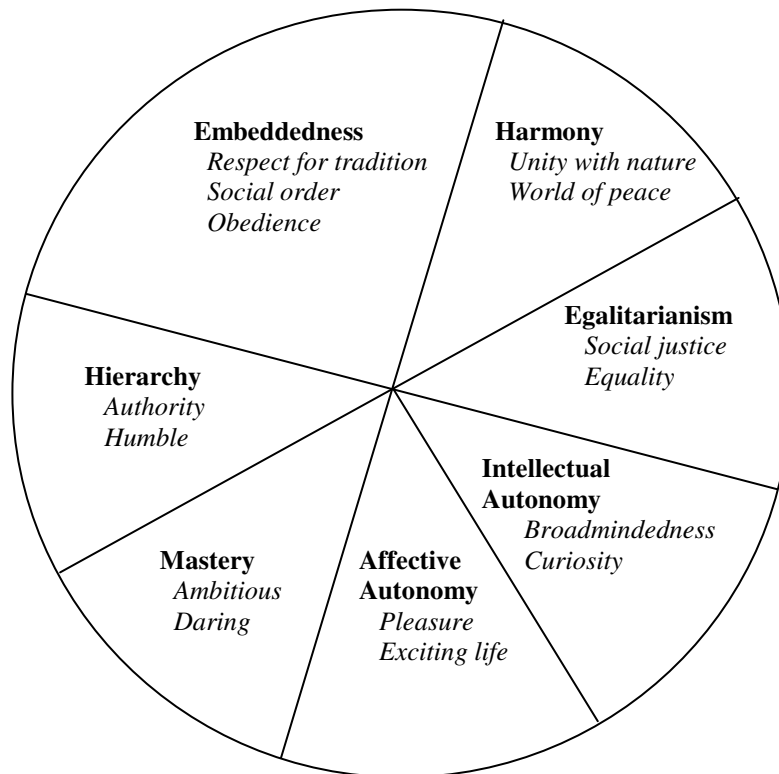
<p><i>Embeddedness/Autonomy:</i> This dimension concerns the desirable relationship between the individual and the group. Embeddedness represents a cultural emphasis on maintenance of the status quo, propriety, and restraint of actions or inclinations that might disrupt the solidary group or the traditional order. The opposite pole describes cultures in which the person is viewed as an autonomous, bounded entity who finds meaning in his or her own uniqueness. It is possible to distinguish conceptually between two types of autonomy. <i>Intellectual Autonomy:</i> A cultural emphasis on the desirability of individuals independently pursuing their own ideas and intellectual directions. <i>Affective Autonomy:</i> A cultural emphasis on the desirability of individuals independently pursuing affectively positive experience.</p>

¹⁹ For clarity, societal-level priorities will be called orientations as distinguished from individual-level value preferences.

Egalitarianism/Hierarchy: This dimension refers to the ideal way to elicit cooperative, productive activity in society. Egalitarianism represents an emphasis on transcendence of selfish interests in favor of voluntary commitment to promoting the welfare of others. Cultural preference for hierarchy, in contrast, legitimizes unequal distribution of power, roles, and resources on the basis of attributes such as wealth, gender, age, and caste. People are socialized to obey their role obligations and to accept the consequences of such structures.

Mastery/Harmony: This dimension refers to the relation of humankind to the natural and social world. Mastery stands for a cultural emphasis on venturing and getting ahead through active self-assertion in order to master, change, and exploit the natural and social environment. Harmony represents an emphasis on fitting harmoniously into the environment.

Figure 2. The Schwartz Model of Relations among Cultural Orientations



Based on Schwartz (1999).

The quest for dimensional theories of culture has a long and respected lineage. An earlier and still influential theory developed by Hofstede (1980; 2001) identifies cultural value dimensions derived from audits of employee morale in IBM Corporation. The Hofstede theory originally distinguished four, and later five, cultural value dimensions: individualism/collectivism, power distance, uncertainty avoidance, masculinity/femininity, and long-term orientation. Several scholars in management studies and other disciplines have also advanced dimensional models of culture.²⁰

²⁰ See, e.g., in political science, Inglehart (1997) (survival vs. self-expression; traditional vs. secular); in anthropology, Thompson et al. (1990) (drawing on the work of Mary Douglas: individualism, egalitarianism, fatalism, hierarchy and autonomy); in management, House et al. (2004) (nine orientations); Smith et al. (1996) (loyal vs. utilitarian involvement); see also Bond et al. (2004) (a dimensional theory of societal beliefs).

The Schwartz model, however, is currently considered the most advanced in social psychology for a number of reasons. First, the model is theory-driven, its central elements having been derived from earlier work in the social sciences. Second, and most important, the model uses value measures shown to have cross-culturally equivalent meanings at the individual level to operationalize the cultural dimensions. Finally, validating data for this model was collected relatively recently and from different sample types thus supporting the robustness of the model's country ranking (Smith et al., 2006).

4. CULTURE, NORMS, AND THE LAW

4.1. TOWARD AN INTERDISCIPLINARY ACCOUNT OF SOCIAL INSTITUTIONS

Integrating insights from New Institutional Economics with theories from cross-cultural psychology provides a framework for understanding the relations between social norms and the law, and, hence, the key to understanding the prerequisites for legal compliance.

Roland (2004: 109) summarizes the central insight from New Institutional Economics as follows:

Institutions generally form a system in the sense that each institution in the system is complemented by others, achieving a certain systemic consistency.

Replacing one institution by another can in some cases dangerously disrupt this systemic consistency. Piecemeal institutional change in some directions is made impossible when there are strong complementarities among institutions.

Roland further distinguishes between slow-moving and fast-moving institutions. He argues that informal institutions – particularly culture: values, beliefs, and norms – belong to the slow-moving type. Formal institutions – namely, legal rules

– are fast-moving since they can change overnight. Roland’s view is in line with Williamson’s (2000) model of interaction among level of institutions and with his assertion that these institutions “have a lasting grip on the way a society conducts itself.”²¹

Unlike economic analyses, psychological analyses have not been shackled by the individual-level rational choice approach. Adherence to this approach may be well grounded in theory, but it has prevented economists from developing accounts of societal preferences. Working at both levels of analysis, psychologists have developed and validated both types of accounts. Dimensional models in cross-cultural psychology explicate the content of societies’ most fundamental institutions as they identify the basic challenges societies must address. Indeed, this framework may serve for “reconciling differences between economics and the other social sciences” just as North (1990: 5) proposes. Such theories furthermore identify and operationalize societal stances on these issues. These stances are the responses that societies adopt to such challenges. Moreover, these theories point to mechanisms that mediate and implement these societal stances. The primary mechanism is cultural influence on individual value preferences.

Recall Williamson’s Level 1 of informal institutions. Like others in the economic literature, Williamson treats culture as a “black box” (see Tabellini, 2006; Fernández, 2007).²² The cultural value dimension framework opens this black box in that it distinguishes different components (orientations). Each component has a different role in defining the features of social order. Societies’ stances on each orientation constitute the foundations of their social institutions. At this point, economics makes a significant

²¹ The view of institutions as interconnected systems further is compatible with general systems theory (Gibson and Hughes, 1994).

²² Tabellini (2006) in fact opens this black box somewhat by focusing on a cultural factor close to the hierarchy orientation.

contribution by suggesting how such deep-seated but highly abstract societal orientations exert their influence on the development of more specific social institutions such as particular social norms, particular beliefs, etc. In one view, such institutions are treated as exogenous constraints, in line with Williamson's view (Roland, 2004).

Alternatively, informal institutions are modeled as endogenously-appearing self-enforcing rules that are the equilibrium of a repeated game (Aoki, 2001). The latter view considers the content of such institutions to be common knowledge (compare Greif and Laitin, 2004). Social players thus interact with partners assumed to share the same priors (beliefs) and to be guided by a similar set of motivational goals (values). The constraining effect of culture as societal common knowledge in equilibrium stems from the belief that it is in everybody's self-interest to adhere to these values and beliefs unless and until an exogenous shock upsets the equilibrium.

Viewing them merely as constraints does not fully capture the role of informal institutions. In addition to this view, sociology and psychology view a society's prevailing values and norms also as sources of motivation and justification for action (Nee, 2005). As noted, the cognitive (knowing) element of values is augmented, at the individual level, by an affective (feeling) element that influences motivations and guides actions (Schwartz and Bilsky, 1987). Behavior that is consistent with values engenders a positive feeling and vice versa. Psychologists consider value preferences as part of an interconnected system – a “social mind” (Oyserman, 2001) – much in line with the economic conception of societal common knowledge.

Integrating insights from game theory in economics with cultural dimension models in psychology may furthermore help in making progress in understanding

focal points – a subject about which there has been much frustration (Kreps, 1990).²³ McAdams (2005: 1060n55) opines that "[although] economics has no theory for what features have that [focal point] effect, though other disciplines may. Psychology, for example, may be able to say what features of a situation are likely to be most salient." It seems plausible that conduct that is compatible with socially shared values and beliefs – namely, with prevailing cultural orientations – is more likely to be focal. Value dimension theories can identify which are those shared values (although it may not exhaust the phenomenon of focal point selection).

The North-Williamson-Roland view of social institutions as an interconnected system implies that norms are interrelated and therefore cannot be analyzed solely as isolated objects. To lawyers, this hierarchical model of social institutions (norms in particular) reminds one of Kelsen's pyramid of norms. Kelsen (1942; see Harris, 1997 for a review) postulated a multi-level structure of legal norms in which each layer generates and legitimizes the next. The validity of the entire structure emanates from a preexistent basic norm (*Grundnorm*). Like Kelsen's pyramid, the pyramid of social institutions actually stands on its head, as its basis consists of only a few basic norms.

4.2. SOCIAL NORMS AND THE LAW – CONTENT COMPATIBILITY

Interest in social norms has grown considerably in light of accumulating evidence that social norms may replace legal norms in certain communities.²⁴ Much of the debate revolves around the interrelations between social norms and the law. Of particular

²³ "The point is that in some games with multiple equilibria, players still 'know' what to do. This knowledge comes from both directly relevant past experience and a sense of how individuals act generally. And formal mathematic game theory has said little or nothing about where these expectations come from, how and why they persist, or when and why we might expect them to arise. The best discussion of these sorts of things (at least in the literature of game theory) remains the original treatment due to Thomas Schelling (1960); little or no progress has been made in exploring Schelling's insights." (Kreps, 1990: 101). Thanks to Richard McAdams for this reference.

interest are ways to integrate the potency of informal social norms with the malleability of formal legal norms – namely, how can the law be used to induce emergence of beneficial social norms. Ideally, people would abide by norms that were engendered by laws. Hence the depictions of law as having an expressive (rather than regulative), or focal point-providing, role.²⁵ Generalizing this point, Cooter (1996b) called for promoting the “rule-of-law state,” in which state law is aligned with social norms such that citizens can economize on legal counsel by using morality as a guide to legality.

Underlying the above accounts is the hypothesis, stated most clearly by Roland (2004), that in order to function, social institutions must have systemic consistency – that is, they must be complementary and conceptually compatible. Systemic consistency between laws and social norms – formal and informal institutions in the New Institutional Economic parlance – implies consistency between Williamson’s Level 1 and Level 2. This general hypothesis of systemic consistency in turn yields two more specific hypotheses:

(H1) Content consistency – The content meaning of social norms and legal rules is conceptually compatible.

(H2) Functional consistency – The role law plays in social regulation is conceptually compatible with the informal normative environment.

Recent evidence provides substantial support to the first hypothesis on content consistency. In a joint study by this author with Goldschmidt and Schwartz, we document robust correlations between measures of investor rights and cultural

²⁴ In addition to Ellickson (1991), Bernstein (1992; 2001) and Strahilevitz (2003) have provided substantial support to this notion.

orientations under both Schwartz's and Hofstede's models (harmony and uncertainty avoidance, respectively) (Licht et al., 2005). Investor rights scores were taken from La Porta et al., 1998). The legal rights coded by La Porta et al. were meant to capture instances in which investors could turn to the court to enforce their substantive rights, mostly with regard to voting. Legal systems providing more such rights are therefore more inclined to rely on court litigation to support investors' interests in the corporation. Since litigation tends to be more volatile and unpredictable than alternative governance mechanisms (e.g., hierarchical regulation by the government), a cultural environment of low harmony and low uncertainty avoidance is conceptually compatible with greater reliance on litigation.

In the same study, we further document theoretically consistent and robust correlations between these dimensions and measures of formalism in civil litigation rules around the world. (The formalism measures were taken from the Lex Mundi project conducted under the auspices of the World Bank by Djankov et al., 2003). Higher levels of formalism in court systems' working is accompanied by cultural preferences for low harmony and high uncertainty avoidance—both reflecting societal aversion toward dispute resolution processes whose outcome is indeterminate. Higher formalism in legal procedure serves a societal orientation toward greater certainty in general and in legal dispute resolution in the particular.²⁶

Similar content consistencies between the informal, cultural orientation environments and the formal legal regime furthermore have been observed with

²⁵ See, e.g., Sunstein (1996) (arguing that the law can be used to change social attitudes); Lessig (1996) (discussing expressive function of law); McAdams (2000) (arguing that the law serves to signal attitudes). For a critique of expressive theories of law, see Adler (2000); Weisberg (2003).

²⁶ The results therefore support Chases's (1997a; 1997b) argument that differences between the American and German civil procedure laws reflect deeper cultural differences captured by

regard to the egalitarianism vs. hierarchy dimension. In a joint study with Siegel and Schwartz, we find that egalitarianism robustly correlates with a wide range of important policy outcomes and legal provisions (Siegel et al., 2007a). Among other things, higher egalitarianism correlates with higher legal benefits to weaker members in society: the sick, the elderly, and the unemployed; it is also linked with more effective enforcement of antitrust law and with regulatory regimes providing for greater financial transparency.

Finally, in a separate study with Siegel and Schwartz, we find supportive evidence for content consistency among informal social norms at different levels of generality (i.e., *within* Williamson’s Level 1). Specifically, we find that societal proclivity towards entrepreneurship is negatively related to cultural harmony (Siegel et al., 2007b). This finding is in line with harmony’s de-emphasis on venturing, assertive action, and risk taking. This is consistent with the nature of legal litigation in low-harmony societies (primarily English-speaking, common law ones) as an uncertain venture, whereas in high-harmony societies (e.g., in Western Europe) court litigation may be characterized as a quest for certainty and truth (Licht et al., 2005; see generally Merryman, 1985).

4.3.COMPLIANCE – THE RULE OF LAW AS A SOCIAL NORM

Hypothesis H2 on functional consistency addresses perhaps the most fundamental question about social norms and the law – namely, the relations between the content of the law (“law on the books”) and compliance with the law (“law in action”). This section argues that such functional consistency implies that the rule of law is

Hofstede’s theory and findings. See, generally, Damaska (1974-1975), whose study has informed both Chase (1997a; 1997b) and Djankov et al. (2003).

primarily an informal social norm calling for legal compliance, and elaborates the cultural setting conducive to legal compliance.

Recall the proverbial pooper-scooper law. The alleged promise of passing such a rule does not lie in its deterrence effect because official enforcement is certain not to be forthcoming. Rather, students of social norms conjecture, the rule's real effect is to inform people about the right behavior. With this rule in place, the pedestrian feels more confident that cleaning after one's dog is the right thing, such that she is willing to approach a stranger and chastise him. The pedestrian also points out the justification: "It's the law." Drawing the dog owner's attention to the legal norm is not meant as a threat but rather as an argument of moral suasion. The pedestrian apparently assumes that the dog owner shares her belief, that the law is a good source for guidance about the right behavior.²⁷ At least, authors who advance this hypothetical so believe.

The pedestrian's assertion could be persuasive and motivate poop-scooping only if there existed a more basic norm of complying with the law as such rather than for fear of sanction. Let us call it a rule-of-law social norm. Such legal compliance may be due to whatever mechanism that may be in place, either internal or external (compare Funk, 2005). The rule-of-law norm serves as the interface between the informal system of social norms and the formal system of legal norms – between Williamson's Level 1 and Level 2. Only in societies where the rule-of-law norm prevails can the law be used in its expressive mode. Where this interface does not function, the informal and formal norm systems are likely to run out of synch.

²⁷ Note that unlike the law that one should drive on the right-hand side of the road, the pooper-scooper ordinance does not serve to select a focal point in a coordination game. Absent potential punishment, it is a dominant strategy not to clean after one's dog.

The prevalence of the rule-of-law social norm cannot be taken for granted, however. To be sure, the fact that a certain rule of behavior has taken shape as a formal legal rule may increase its normative character – the “ought” statement it implies – in the eyes of many Americans. But even this limited conjecture is not self-evident: If the hypothetical pedestrian directed her rebuke to one of Ellickson’s Shasta County ranchers, the latter might as well respond with “Is it?” or “So what?” Such a response would reflect the fact that ranchers were not well-informed about the law and had developed alternative norms to govern relations with their neighbors.

Recall the seat-belt campaign that says “Buckle up! It’s the law.” The Buckle-up signs say nothing about Americans’ tendency to uphold a norm of using seat belts. Yet these signs do provide anecdotal evidence that Americans subscribe to a basic social norm of obeying the law as such. Associating seat belt use with obeying the law seeks to harness the power of the deep-level rule-of-law norm to motivate compliance with the specific, higher-level seat-belt-use norm. Public officials apparently believe that the fact that “it’s the law” can be a potent factor in motivating seat belt use because they believe that American drivers generally share the rule-of-law norm. Likewise, when the campaign directs this message to children, it bundles “buckle up!” and “it’s the law” as alternative statements of “it’s the right thing.” The foregoing analysis now allows us to address the question raised in the Introduction, whether “it’s the law” would be equally persuasive in different cultures.²⁸

The rule of law obviously means more than just obeying municipal ordinances and their like. The rule of law is a complex concept on which many jurisprudence

²⁸ In Kohlberg’s (1981; 1984) theory of stages of moral development, obeying the law fulfils a morally injunctive role in two stages: At stage 1 (obedience and punishment orientation), children identify breaking the law as bad conduct per se that is likely to lead to punishment and should thus be avoided; at stage 4 (maintaining the social order), adults consider obeying the law as necessary for

scholars differ. Indeed, the term “rule of law” itself is not used as such in all countries. For instance, the German parallel *Rechtsstaat* and the French parallel *Legalité* each carry a somewhat different meaning. The most basic aspect of the rule of law is sometimes referred to as the “formalistic” or “procedural” aspect (Fuller, 1964/1969; Rawls, 1971), or, more colloquially, as “law and order”. This aspect deals with the degree to which the behavior of individual persons and government authorities complies with formal legal rules. It is immaterial whether the rules are morally unjust or what political process (democratic or other) produced them (Raz, 1979). The only question is whether the rules are respected. The implicit assumption is that ordinarily – i.e., absent severe moral dilemmas – they should be.

During the last decade, virtually all the major international institutions have adopted policies to promote the rule of law and accountability and to curb corruption under the umbrella of “good institutions” or “good governance.” The World Bank in particular “views good governance and anti-corruption as central to its poverty alleviation mission” (World Bank, 2007). Any country seeking membership of the European Union must meet certain conditions under the Treaty on European Union. Accession negotiations cannot start before a country satisfies the political preconditions (the Copenhagen Criteria), namely: the rule of law, democracy, human rights, and protection of minorities.

The rule of law principle prescribes legitimate modes of wielding power. The essence of the rule of law is that power ought to be used only in ways allowed by the law (Dicey, 1915). The types of power covered by the rule-of-law norm vary greatly. They range from long-term positions of power held by the state itself (as reflected in

social order. The present analysis might suggest a basis for culturally contextualizing Kohlberg’s theory.

the German term *Rechtsstaat*) or state organs (as in the separation of powers doctrine), to holding a public office. This continuum goes on to holding an executive office in a business corporation and other situations that allow for opportunistic behavior. Conceptualizing the rule of law as a social norm implies that in societies subscribing to this norm, (1) legal compliance will be more voluntary, and (2) private enforcement will complement or even substitute state enforcement, as suggested by the pooper-scooper hypothetical. This is the sense underlying Cooter's (1996b) call for promoting the rule-of-law state as opposed to the rule of state law. Crucially, the rule-of-law norm applies at the societal level of analysis. It describes societies, not individuals (consider the Copenhagen Criteria). Individuals do not uphold the rule of law, they obey the law.

Endorsing the rule of law as an overarching norm is consistent with societal emphasis on the autonomy orientation in the Schwartz model. The gist of autonomy is the perception of people as bounded entities who find meaning in their own uniqueness. The rule of law implies that legal entitlements will be respected in most circumstances, irrespective of the context, because the ultimate source of guidance – especially for conflict resolution – is what the law says. Respecting people's uniqueness, boundedness, and autonomy means that their entitlements are also well defined. Thus, people in a rule-of-law society can more safely assume that their contracts will be honored and their property respected, and that they can more openly express what is on their mind. As legal philosopher Raz (1979: 212-14) notes, the upshot of the rule-of-law norm is that individuals can better plan their independent moves in a complex world. People in a high-autonomy society need the law as a stable, a-contextual beacon with which one can navigate alone in life, as cultural autonomy calls on them to do. When the rule-of-law state provides people with a

comprehensive set of rights and freedoms and effectively enforces them, it also gives concrete expression to cultural autonomy.

In contrast, the rule-of-law norm is less likely to prevail in societies that emphasize embeddedness. In high-embeddedness societies, the very identity of individuals and the meaning they find in life derive from numerous relationships with others. Respect for tradition, honoring elders, and obedience are salient values. Self-restraint and compromise of one's desires are essential in such a cultural environment. What one's got to do depends crucially on the circumstances. The ultimate source of guidance about the right behavior may vary with context.

The above analysis is in line with economists' interpretation of the rule of law institution as entailing "well-defined property rights." This institution is more likely to hold in a high autonomy culture, where people's self is well defined. The rule-of-law norm, calling as it does on people to focus on rigid individual entitlements regardless of the context, is conceptually incompatible and hence systemically inconsistent with cultural embeddedness. Where people's self is diffuse and contextual, what is "theirs" may be diffuse and contextual as well.

Endorsing the rule of law as an overarching norm is also consistent with societal emphasis on egalitarianism in the Schwartz model. Emphasizing egalitarianism is compatible with the rule-of-law norm as it reflects a perception of societal members as moral equals, entitled to equal protection under the law. In an egalitarian culture, superior power does not confer superior privileges such that law-abidingness is expected from all societal members regardless of their power position. The opposite holds for hierarchical cultures, where people in higher echelons are seen as superior and may therefore enjoy deference and preferential allocation of resources.

In Hofstede's model, the rule-of-law norm is mostly compatible with societal emphases on individualism and low power distance. Societal members in individualistic societies are expected, if not urged, to pursue their own (sometime selfish) goals in life. A rule-of-law state provides a better environment for them to achieve these goals by setting a legal framework that allows every person to have her fair chance to do that. Societies high on collectivism find less importance in protecting individual members' interests and satisfying their preferences. Collectivism expresses a premise that the interests of a wider group take precedence over individual members' interests. High power distance implies, *inter alia*, legitimation of people taking advantage of power positions. In the present context, this would be done notwithstanding formal legal rules that provide otherwise. At the individual level, people in high power distance societies may not like to be taken advantage of yet accept this as a fact of life in their social environment.

4.4. THE EVIDENCE

A joint study with Goldschmidt and Schwartz provides evidence in support of the above hypotheses (Licht et al, 2007). Specifically, in a sample covering over 50 countries we find that perceived levels of rule of law, non-corruption, and democratic accountability strongly and systematically correlate with higher autonomy and egalitarianism in Schwartz's model and with higher individualism and lower power distance in Hofstede's model.²⁹ We further find that cultural emphasis on autonomy and de-emphasis on embeddedness is the dominant factor that positively affects perceived levels of the rule of law, non-corruption, and the praxis of democracy in nations. Causality was assessed using instrumental variable regression analysis with

²⁹ The measures of governance were drawn from the World Bank's Governance Indicators dataset, www.worldbank.org/wbi/governance/govdata/.

two different instrumentation strategies. In particular, this study shows that a grammar rule on pronoun drop license, which is linked to contextualization of subjects in speech (Kashima and Kashima, 1998), captures sufficient variability in autonomy/embeddedness to significantly predict governance. The results indicate a substantial influence of culture on governance, with clear economic outcomes. A separate study, also using instrumental variables, shows a positive causal influence of egalitarianism on governance (Siegel et al., 2007a).

Cross-cultural differences in law-abidingness have often been mentioned in comparisons of the West vs. the East – in particular, the United States vs. China and other North-East Asian countries. Scholarly differences on the rule of law as a desirable mode of governance go back 2500 years, to Socrates and Confucius.³⁰ In a regional comparison, Western countries score significantly higher on all measures of governance relative to Far Eastern countries; the former also score higher on autonomy and egalitarianism (Licht et al., 2007).

Social psychologists who compared American subjects with East Asian (especially Chinese and Korean) subjects also agree that the former are more individualistic than the latter.³¹ Na (1997; cited by Na and Loftus, 1998) found that “Koreans (especially non-experts) tend to respect Confucian ethics more than the codified laws. Thus, Koreans might aid in their fathers’ or bosses’ illegal activities even if they clearly know the illegal nature of such activities.” Na avers that “Koreans are not willing to abandon their important interpersonal relationships just to abide by

³⁰ Socrates’s refusal to escape from jail after the city of Athens sentenced him to death is often presented as the classic exposition of arguments for the duty to obey the law and, generally, for the importance of the rule of law for social order. At about the same time, in equally powerful terms Confucius derided the rule of law as a means for establishing social order in China. On Socrates, see Smith (1972-1973); Soper (1996); on Confucius and law-abidingness see, e.g., Alford (1986); Chen (1999-2000).

the law.” Comparing Americans’ and Koreans’ positions toward the law, Na and Loftus (1998) have shown that Korean undergraduate students showed negative attitudes toward law and low trust in the legal system. Koreans also had less positive attitudes toward strict enforcement of law than did Americans. Korea’s transformation toward democracy and market economy may exert pressure also on its cultural orientation and general attitudes toward the law (Haam, 2003). It is not clear, however, how much these changes can fundamentally change the Korean culture. Cha (1994) argues that despite changes toward individualism, Koreans in both young and old age groups were on the whole collectivist in absolute terms.

Several scholars have connected experimental economics and insights from social norms analysis to law-abidingness. Bohnet and Cooter (2003) find, in a sample of American students, that in social dilemma games with multiple equilibria, framing a negative payoff as a “legal penalty” is helpful. Bohnet and Cooter conclude that laws whose enforcement is ineffective (such as a ban on smoking or littering in public places) hinge on “the underlying normative system” (18-19). Using a sample of Swiss students, Tyran and Feld (2006) demonstrate that people may obey a rule backed only by mild sanctions if it is accepted in a referendum. Funk (2007), however, finds that the legal abolishment of the voting duty in Switzerland significantly decreased average turnout, even though the fines for not voting have been minimal. Lastly, McAdams and Nadler (2005) examine the idea that law operates expressively by creating focal points in games with multiple equilibria. These authors find that this effect was stronger when the expressing agent was selected by a merit-based process.

³¹ See Nisbett et al. (2001); Peng et al. (2001); Fiske et al. (1998). In their conceptualization of individualism and collectivism these studies rely primarily on Markus and Kitayama (1991).

The results of these studies are consistent with the present theory. In various degrees of explicitness, each of these studies relies on some underlying normative premise shared by the subjects as a precondition for compliance that is not driven by deterrence. Bohnet and Cooter (2003) indeed make this point their central conclusion. In regards with Tyran and Feld's (2006) study, one may note that by conducting a referendum among Swiss subjects these researchers likely have invoked the strong societal emphases on autonomy and egalitarianism that a referendum reflects, especially in Switzerland. After all, Switzerland was the first country to introduce the referendum as a means of direct democracy in the mid-19th century, and remains the major example among world countries for regular use of referenda. This experimental setting therefore resembles the practice of "priming" in psychological experiments, in which subjects' cultural affiliation is made more salient. Funk's (2007) findings suggest that a law-abiding society may indeed need the law to support a social norm through its expressive function. McAdams and Nadler's (2005) finding, that a merit-based selection of the person suggesting the focal point, implies that group judgment as to what would be considered legitimate may vary across social groups and cultures.

The title of this article pays homage to Tyler's (1990) seminal contribution to our understanding of legal compliance. Recall that Tyler's subjects emphasized fairness, neutrality, opportunity to participate, and honesty among the factors that led them to uphold a legal injunction. In a series of joint studies with Lind, Huo, and others, these researchers have established that similar factors make people perceive dispute resolution procedures as fair notwithstanding ethnic diversity (Lind et al., 1994; Huo et al., 1996; Tyler, 2000).

In two studies, these researchers set out to examine the role of Hofstede's power distance on subjects' perception of justice in dispute resolution in samples from

the U.S., Germany, Hong Kong, and Japan, as well as multi-ethnic U.S. samples (Tyler et al., 2000; Lind et al., 1997). The researchers constructed several scales of power distance using items from Hofstede (1980), from Schwartz (1992), and specially written items. Although in both studies the authors were able largely to replicate these countries' ranking according to Hofstede, the power distance variable did not link with individuals' perceptions of justice, leading the authors to conclude that such perceptions are formed in a similar way across cultures. One should note, however, that power distance is a societal-level dimension, whereas both studies were conducted at the individual level of analysis (sometimes even introducing country dummies, thus capturing the effect of culture-level institutions). These results of Tyler and his colleagues thus do not stand in contrast to the present theory or to the empirical evidence cited above. These results indeed are consistent with broader findings, that individuals exhibit similar value preference rankings across cultures (Schwartz and Bardi, 2001).

5. CONCLUSION

This article argues that social norms need to be analyzed as an interdependent system rather than isolated regularities. Adopting the framework advanced here is compatible with the different views of social norms currently proposed by law and economics scholars. This framework may thus serve as a bridge toward a unified theory of social norms and other social institutions. In terms of policy implications, extant evidence implies that instilling a rule-of-law norm in countries where it currently does not prevail may be a daunting task. People in such countries may find the content of the rule-of-law norm attractive yet incompatible with the social environment in which they live. Development programs that rely on the rule-of-law state paradigm must take into account the cultural environment to which they are targeted.

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