

# Encyclopedia of Law & Society: American and Global Perspectives

## Compliance with Law

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In the lead-up to the 2003 war in Iraq, the United Nations weapons inspectors roamed the country in search of reliable evidence of whether Iraq was complying or not with international law. In debates over whether to extend or to retract the use of the death penalty, lawmakers and enforcement officers take contrasting positions on whether increased penalties result in greater compliance with law. In many countries, city governments are installing street-level cameras according to the belief that a watchful government eye will compel compliance with criminal laws. In these and other contexts, views on compliance, sometimes asserted rather than proven, can have a profound effect on international and domestic affairs.

Do individuals, organizations, and governments conform their behavior to legal rules? If so, how and why? What role do sanctions play in fostering [p. 233 ↓ ] compliance? Do they deter potential lawbreakers from engaging in lawless activities? Do individuals choose to comply with or disobey law for other reasons? These questions go to the heart of the effectiveness of a legal order. Compliance is thus widely considered an essential element of a functioning legal order. Studies on compliance are legion and cover a range of subject areas, including capital punishment, environmental law, international law, occupational health and safety, vehicular speeding, and tax. In studying compliance, scholars bring a range of disciplinary methods to bear, including economics, psychology, or sociology to philosophy or morals.

International law scholars have shown special interest in the question of *whether* individuals or entities comply with law. International law has come under sustained attack by international relations scholars, who claim that it fails to discipline state behavior. So minimal is state compliance, they argue, that one should not consider international law “law” at all. In making these arguments, researchers use rates of compliance with domestic law as the yardstick by which to judge the effectiveness and even existence of international law. Richard Falk, a prominent international lawyer, called this a “jurisprudential insult,” arguing that it is based on a false and idealized conception of domestic compliance (2002: 355–56). Similarly, Louis Henkin, another leading commentator, claimed: “Almost all nations observe almost all principles of international law and almost all of their obligations almost all of the time” (1979: 47). A growing body of interdisciplinary literature tests these assertions, focusing on such

things as cooperative problem-solving by states and the role of state and nonstate actors in legal norm internalization by governments.

Taking the next step, scholars have hotly debated the questions of *why* and *how* individuals and organizations comply with law. Studies focus on deterrence, social group pressure, individual morality, and rationality to explain compliance.

The deterrence literature looks mainly at the role of criminal sanctions in compelling compliance. Do threats of sanctions deter potential offenders? Are convicted offenders more likely to forgo future crime because of the imposition of punishments? Does the severity of punishment play a role in decisions about whether to forgo criminal acts? Do potential offenders conduct a cost-benefit analysis, taking into consideration the probability that officials will carry out punishment for a criminal act?

As the literature in this area highlights, it is also possible that individuals or other entities will forgo criminal acts because of group or individual pressures. If a peer group sharply disapproves of an act, that fact may sway an individual. It may be, however, that an individual decides to comply with a law for personal moral reasons. Conversely, an individual may decide not to comply with a law for morality reasons. For instance, during the period of American slavery, individuals knowingly transported slaves out of the South through the so-called Underground Railroad. Likewise, Sophocles' (495–406 BCE) tragedy of *Antigone* demonstrated that an individual might refuse to comply with one law in order to obey another, higher one.

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*See also*

- [Cost-Benefit Analysis](#)
- [Death Penalty](#)
- [Morality and Law](#)
- [Punishment, Economics of](#)
- [Punishment, Psychology of](#)
- [Sanctions](#)

### Further Readings

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