Coercion and Compliance

A New Look at an Old Problem

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Despite the general recognition of its importance, it has been noted that there is a paucity of theoretical treatment of the problems of compliance to law (Krislov, 1966). While there is a vast literature dealing with rule-specified behavior, a direct focus on the peculiarities of *legal* rules and compliance to them seems to have been skirted in favor of more general treatments of social norms, less-structured rule and compliance systems, and basic or constitutional rules. And when law and the problems of compliance have received specific attention, it has usually been in terms of a broad, societal level, relating legal norms to cultural norms or focusing on "trouble cases" and instances of noncompliance. Detailed empirical studies in sociology have tended to focus on deviant behavior and its correlates, while in political science the approach has tended towards even less-general descriptions and case studies of the impact and consequences of legislative and judicial policy-making.

On the other hand an impressive body of literature with its roots in economics has begun to develop theoretical formulations of individual and collective decision-making in a variety of social and political situations which has direct relevance to the study of law and legal choice (Blau, 1964; Thibaut and Kelley, 1959; Arrow, 1951; Buchanan and Tullock, 1962; Olson, 1965; Coleman, 1966a, b, c). There are a number of compelling reasons why the application of this general orientation and concern for formal theory ought to be particularly useful in the development of a theoretical characterization of laws, the problems of compliance and noncompliance, and the functions of formal, legal sanctions. First is the strict insistence on the adherence to the

individualistic postulate, the characterization of collectivities in terms of their individual, constituent members. Such a requirement would seem particularly desirable in the study of law and society, where so often analysts have been guilty of both reification and assigning "purpose" to vaguely defined collectivities. Another is the nature of the legal system itself: it is a highly formalized system of rules which are usually selected by and operate under definite and clearly determined social mechanisms. Thus while laws are promulgated in a host of ways and deal with a wide variety of types of human behavior, on a more abstract level the legal system can be conceptualized as a rather formal, well-defined system of social choice and interaction, the elements of which are specifiable. All this leads me to think that the more formal approaches and orientation of recent social choice theorists might have particular significance for the study of law and the problems of compliance. In particular, there are several impressive discussions which deal with theories of constitution-making. Obviously such theories of basic norms, to adhere to Kelsen's terminology, have direct implications for the structure and consequences of substantive, primary norms which form the daily stuff of the law. Consequently, these particular studies provide a convenient point to begin the attempt to develop a theory of compliance.

FOUNDATIONS FOR AN ECONOMIC THEORY OF COMPLIANCE

Among this literature James Buchanan and Gordon Tullock's *The Calculus of Consent* (1962), subtitled "The Logical Foundations of Constitutional Democracy," offers the most directly relevant place to begin the task. The focus of their examination is quite simple: "to analyze the calculus of the rational individual when he is faced with the questions of constitutional choice" in order to answer the question, "when will an individual member of the group find it advantageous to enter into a 'political' relationship with his fellows?" (See Buchanan and Tullock, 1962: 43.) They then proceed to examine the strategies, calculations, and consequences of the rational individual engaging in constitutional construction, and introduce several mechanisms which, they argue, will allow individuals to reach unanimous agreement on a constitution. The foremost device is a set of variable decision-rules. Thus for example, provisions involving basic civil liberties and property rights can only be altered by a rule approaching unanimity of consent, while less important concerns can be adopted by less stringent decision-rules. This set of variable decision-rules allows decision-making costs to be minimized in proportion to the amount of externalities imposed by the particular collective decisions. Buchanan and Tullock also argue that the mechanisms of log-rolling, side-payments, and vote-trading can be incorporated into a set of institutions which implement this conception of a unanimous consent-based system. Real-

izing that each particular decision or decision-rule will probably result in a net benefit for each individual, there is a tendency to support a personally nonbeneficial decision-rule (or decision under it) only in turn for some type of compensation through one of these adjustment mechanisms. Furthermore, they argue that these devices, plus the desire to minimize decision-making costs of purely voluntary action, can be utilized to insure that each individual will benefit from collective governmental action in the long run, and hence will voluntarily support all its activities and programs. Any net costs incurred in a particular instance must be viewed as exchanges for future benefits.

Thus, by adopting a market model of voluntary and mutually beneficial exchange as the basis of a unanimously agreed upon constitutional system, it is argued that each individual will maximize his utility in the long run, and that a stable equilibrium will be achieved. On a general level this notion of mutual benefit seems to be a reasonable conception of political life, particularly in the actions of formal representative bodies. But can we expect this voluntary conception of social and political life to hold on a societal level in all cases? Are particular operational or substantive policies always adopted and accepted on a purely voluntary basis?

The appropriateness of this reliance on a market model and purely voluntary political organization to provide social wants should be carefully scrutinized. Traditionally a basic characteristic of a market system is that the products be exclusive and divisible, since the basis of the exchange relationship is that individuals can maximize their personal utility and attain a state of marginal equilibrium through *quid pro quo* and self-policing transactions. On the other hand many of the basic and traditional functions of government are not of this nature. Rather they often tend to be "public" in nature; that is, once they are produced they are available to all whether they want them or pay for them. Such goods are not feasibly exchanged in *quid pro quo* transactions. Consequently it does not seem to always be the case that even unanimous desire for these goods would result in the spontaneous and voluntary decision to adopt them, whether by government or through private actions, even when the decision-making costs are ignored. When a large group is involved, it is questionable whether there is sufficient incentive for individuals to contribute voluntarily toward or voluntarily accept the costs of producing such a desired goal. And if they are drawn into action, there is a tendency for them to understate their preferences in order to minimize thieir costs. Since they receive the benefits anyway, and their contributions make no difference to the amount of the good produced, the incentive of the market place is lacking.

Buchanan and Tullock (1962: 68-85) have attempted to overcome this problem by introducing the practices of compensation, logrolling, side-payments, and vote-trading over time. Coleman (1966b, c) has presented similar arguments in at least two articles. The gist of this very interesting

argument is that with the opportunity for a large number of decisions of varying importance to be made over an extended period of time, individuals can achieve a state of marginal equilibrium by exchanging their votes on particular issues for others' support on other issues. That is, these numerous votes, of varying importance to the individual, have the same function as goods in the market, and can be bartered in a manner to express precisely his interest on each one. A "vote market" has thus been created by considering numerous collective decisions through time, rather than conceiving each collective decision as a distinct and isolated event.

Let us examine in more detail the implications of this argument since it has important consequences for the explanation of "the most difficult of all intellectual problems in the functioning of society: how individuals, each acting in his own self-interest, can nevertheless make collective decisions, function as an on-going society, and survive together without a 'war of all against all' " (Coleman, 1966a: 66). This vote-market system does seem to handle the problem of revealing preferences and arriving at decisions in an institutional setting where votes can clearly and openly be traded and collected. But it is still not clear that this purely voluntary characterization of collective action would be successful in a broader social setting, particularly at the policy implementation and enforcement level. If indeed, it is to begin to offer a theory of social action, and not just decision, this problem must be resolved. In a sense this problem of implementation is the most fundamental of questions in social interaction and cohesion, and must be considered concurrently with any theory of collective choice which purports to explain social cohesion. An examination of the nature of public goods will point out some of the problems of a purely voluntaristic conception of social exchanges and cohesion.

THE THEORY OF PUBLIC GOODS

While the notion of public, collective, or social goods is an old and important concept, it is not the most well-developed concept in economic theory. There is at best only the most general agreement on the precise characteristics of "pure" public goods. Despite this lack of theoretical development and clarity, the concept persists as an important one in political economy, and in the instance of Baumol's, *Welfare Economics and the Theory of the State* (1952), and Olson's, *Logic of Collective Action* (1965), has begun to make a place for itself in contemporary political science. In this paper I am suggesting its significance for the development of a framework for characterizing a legal system, or at least a good number of laws within one, and examining the attendant problems of compliance. Let us briefly examine the fundamentals of the concept.

Samuelson (1954: 387) has distinguished between two ideal types of goods: "private consumption goods" and "collective consumption goods." The former are goods

> $(X_1, ---, X_n)$ which can be parcelled out among different individuals $(1,2, \ldots, i, \ldots, s)$ according to the relations, $X_j = \sum_1^s X_j^i$, and collective consumption goods $(X_{n+1}, \ldots, X_{n+m})$ which all enjoy in common, in the sense that each individual's consumption of such a good leads to no subtraction from any other individual's consumption of that good, so that $X_{n+j} = X_{n+j}^i$ simultaneously for each and every i^{th} individual and each collective consumptive good.

Thus the public consumption good "differs from a private consumption good in that each man's consumption of it . . . is related to the total by a condition of equality rather than summation" (Samuelson, 1955: 350).

Head, in elaborating on the theory, points out two distinct elements of public or collective goods: (1) jointness of supply, lumpiness or indivisibility of the product, and (2) the nature of external economies, or the problem of exclusion. Jointness of supply is the characteristic of a good so that "once produced, any given unit of the good can be made equally available to all" (Head, 1962: 201). That is, if a good is made available to one individual or group, it can easily be supplied to an additional person without a corresponding loss to the others. The problem of external economies is the infeasibility or impracticality of excluding potential users of the good. The reasons for these external economies (or diseconomies) are described as the divorce of scarcity from effective ownership. That is, the satisfaction derived from such public goods by any individual is independent of his own contribution, because there is no feasible (or efficient) means of "exchanging" the product on a *quid pro quo* basis as there is with private goods in the market. The benefits from public goods accrue to all, and are independent of any individual's particular contribution. Head (1962: 202-203) notes that the effect of all this is

> to create divergencies between private and social costs and benefits, and thus to prevent the satisfaction of the optimum conditions. Some economic units can enjoy some of the benefits without having to pay for them, and it would, of course, be grossly unrealistic to expect them to contribute voluntarily . . . [and] similarly where the full social costs cannot be charged to an economic unit through the pricing process, again voluntary contributions by way of compensation or expenditures to reduce the costs in question cannot reasonably be expected.

How then, and by what criteria, are these types of goods to be provided? This is, of course, one of the central debates in public finance, and there is no simple, agreed-upon answer. The problem arises in seeking a mechanism for

accurately ascertaining the preferences of individuals for the goods, since for any single issue the ideal arragement of the market is not operative. Regardless of the type of political system—including a system in which policies are decided by unanimous agreement—each person will be reluctant to contribute voluntarily to the cost of providing the good. Two interrelated factors contribute to this:

> Any one person can hope to snatch some selfish benefit in a way not possible under the self-policing competitive pricing of private goods. It is in the selfish interest of each person to give false signals, to pretend to have less interest in a collective consumption activity than he really has. [Samuelson, 1954: 388-389]

Assuming that there is some attempt to allocate costs proportionate to use or to intensity of preference, the person would thus save on payments. Second, the tendency is not to want to contribute anything since the benefit can be enjoyed anyway, and the failure of a single individual to contribute will not affect the overall policy. No small amount of effort has gone into resolving these tendencies, often characterized as the problem of contingency of the "free-rider."

Early writers on the subject, perhaps more in terms of justification than explanation, suggested that "the tax tends to take away from each and all that quantity of wealth which they would have voluntarily yielded to the state for the satisfaction of their purely collective wants" (A. Graziani, quoted in Colm, 1936: 4). Here Graziani attempts to solve both the problem of ascertaining true preferences and the insignificance of the individual's contribution to the whole by simply assuming that a person's tax was clearly an accurate assessment of the value of the benefits he enjoyed from the government, and that recognizing this he would gladly and voluntarily surrender his money. The discussion of the nature of public goods in the previous section clearly exposes the weaknesses of this argument.

More recently in traditional public finance, such practical devices as compensation, multiple pricing systems, variable voting rules, plurality voting, point voting, and administrative units with homogeneous characteristics have been suggested as means of indirectly ascertaining individual preferences and allocating costs proportionately. In Buchanan and Tullock's and Coleman's more sophisticated approach, they suggested that some of the above provisions, coupled with the numerous voting opportunities and provisions for logrolling and vote-trading over time, will result in true expression of individual preferences and voluntary acceptance of the costs and collective policies.

However, even with all these provisions there is no guarantee that the costs for each decision will be voluntarily accepted if the policy in question has the characteristics of a public good. The problem of the free rider in the imple-

mentation stage has not been solved. Thus it appears that coercion is necessary to secure payment of costs whether or not individuals actually register their true preferences either in the immediate situation or in the long run. In the case of public goods, argreement is distinct from implementation and long-run benefits from immediate costs; the spontaneity and immediacy of the self-policing traditional market transaction are lacking. Even when a particular policy was agreed to by a unanimous vote of the entire collectivity, there would still be a desire *not* to pay the costs. Each person's realization that the benefits are divorced from individual payments of costs would be sufficient to cause the failure to procure the unanimously desired policy.[1]

It is primarily for this reason that a purely voluntary consent system for financing public projects by government is infeasible. Indeed, history has not recorded any nation that has supported its national defense purely from contributions. Recognizing this tendency, then, how would a polity of rational men react? Since each would be as likely as the next to refuse to pay his costs, in an early agreement they would no doubt agree to make their subsequent decisions binding upon all of them. In other words, they would agree among themselves to act under a system of coercive sanctions, so that each of them could be assured that the others would contribute their fair share (to be determined) of the costs. It would, then, be rational for each person to agree to be coerced in order to assure that all others would contribute their costs to the collectively shared benefits. Ideally one would want all others to be placed in this coercive system, while he himself remained free of the coercive constraints, thus minimizing his collectively imposed costs and increasing his benefits. Needless to say, since each person would be just as likely as the next to want this, it would not tend to come about. The important condition to note in this discussion is that the element of coercion would be accepted even in a system which operated by unanimous consent on each decision. Even the rule of unanimity and the true expression of preferences would not negate the desire and need for coercion. And as decisions began to be decided by less than unanimous consent, and through representatives, the need for coercion would tend to increase as the chances for undesirable enactments increased. Given this characterization of public goods and its implications, how is it to be related to law and the problems of compliance?

LAWS AS PUBLIC GOODS

The concept of public goods will be useful in characterizing some types of laws, examining the functions of sanctions, and in dealing with the problems of compliance. But first, what precisely is meant by characterizing laws as public goods? Can all laws be regarded as such? What are the problems arising

from such a characterization? What are the implications? These are the questions to be discussed in this section.

Two different types of laws might be considered as "public goods." I will briefly mention the first and most obvious type and then focus the remainder of the discussion on the more tentative type. First, those parts of the budget which specify expenditures for public projects, and are coupled with corresponding taxes and provisions for coercive sanctions to be applied in the case of nonpayment, might be regarded as public goods. These projects are precisely the public goods with which economists deal. The collective benefits flowing from budget expenditures then can be regarded as public goods. Or stated another way, the laws specifying the benefits–the state of being–(and also specifying the costs, i.e., amount of taxes and sanctions for noncompliance) can be regarded as public goods. Here the costs are, of course, stated in monetary units surrendered in taxation; in other societies they might be in terms of property or service. Thus, I have simply taken certain traditional public goods and called them laws. It is obvious that the discussion of the need for and importance of coercion, raised in the last section above, is also applicable to them. While this might be regarded as simply semantic sleight of hand, it is important to note. The point is that a good portion of any government's laws are these types of budgetary provisions, and that it has been primarily political economists–almost alone among social theorists–who have emphasized the importance of coercive sanctions in securing them and in gaining compliance. As will be seen more clearly, this in itself is quite important. But first, can the characterization be expanded beyond the confines of the official budget-enabling legislation? I think it can.

Here I want to expand the notion of public goods beyond those items provided for in the budget and "purchased" through compulsory taxation. Many other types of laws provide for a state of being, or benefits, that also share the distinguishing characteristics of traditional public goods, but in a different context. Many traffic regulations, laws regulating public behavior, laws against theft, and the like seem to fall within this category. Once enacted and operative, they tend (in principle at any rate) to apply to everyone equally, and the benefits cannot be feasibly withheld from anyone. The burglar's property is protected as well as the good burgher's; the speeder has benefit of the safe highway as well as the slow driver. What I am suggesting is that the state of being or social condition that laws specify and secure are to be regarded as the collective benefits–the public goods–and that the costs, rather than being in the more traditional form of money, goods, or services, be in terms of the constrained or regulated behavior also specified by the law. To extend an example given above, the thief has benefit of the same protection of his property as do other people, despite the fact that he is not paying his prescribed share of the cost of producing the collective benefits. Furthermore, if everyone decided to burgle his neighbor, the protection

offered against theft would soon disappear. This however, is not part of the concern of the individual thief who calculates only for himself in the immediate situation; he enjoys the full public benefits without paying his prescribed share of the costs. Since costs and benefits are divorced from each other and not "exchanged," he is able to successfully burn his candle at both ends in the absence of an efficacious coercive element.

It is this type of law–having as its *purpose* a general state of being which is available to everyone and is achieved only when a large proportion of people "contribute" to the cost–that I want to characterize as a "public good." Stated in another way, public goods laws are those laws which specify a particular pattern of behavior (or lack of it) to be performed by all those within the polity, and which is achieved only when there is some high degree of compliance to the specifications. All laws obviously do not begin to possess these characteristics. An act recognizing a foreign government could not be considered a "public goods law" in this sense, nor would a law specifying the municipal boundaries of Minneapolis, nor would a law specifying the procedures to obtain a valid marriage certificate. None of these laws requires compliance or widespread consent in order to be efficacious, or to provide for the public benefit. While it is impossible to precisely establish the boundaries, public goods laws, as I have characterized them, would tend to take the form of criminal laws, though even here there are exceptions.

Returning to the definition, a public good was seen to be any good which, if consumed by any person in a group, cannot feasibly be withheld from the others in that group. What I have suggested, then, is that some laws–beyond purely budgetary provisions–share these characteristics: whenever they are enacted and made operative, the general benefits are made available to everyone and cannot feasibly be withheld from anyone. That is, some laws tend to possess the same distinctive problems of "jointness of supply" and exclusion possessed by the traditional types of public goods. The benefits of some laws (as I have characterized them) can easily be supplied to an additional person without a corresponding loss to others. It is rather infeasible to exclude potential users of the good since there is no feasible (or efficient) means of "exchanging" the product on a *quid pro quo* basis. The benefits from the public laws accrue to all and are independent of any individual's particular contribution.

Now that I have established a correspondence between the traditional notion of public goods and the notion that some laws might also be considered public goods, I will extend the analogy in order to make use of the theory of public goods and examine some of its implications. Here the "pricing" mechanism, the distribution of costs, and the laws as public goods will be examined. As discussed earlier, one of the distinguishing and most difficult features of public goods in the determination of an acceptable mechanism to distribute costs in some proportionate relation to the received

benefits. The self-policing, *quid pro quo* arrangement which results in optimal allocations in each transaction is not present and a mechanism producing something less must be utilized. In the case of the traditional public goods, this results in the needs and desire for a coercive system in order to avoid the nonpayment or underpayment of the "free rider" on a given policy enactment.

Likewise, in the case of laws as public goods, does this free rider problem emerge? Will the individual seek to enjoy the benefits without wanting to pay his share of the costs? The analogy seems to hold, though here the direct comparison with the characteristics of traditional public goods becomes a bit more complicated. It is useful here to distinguish among "types" of laws. Those types of laws which are direct enabling and enforcing provisions of the budget would, of course, be subject to all the pricing and compliance problems to which traditional public goods are subject, since the costs are levied in the form of taxes. However, where costs are conceived in terms of limited or constrained behavior, some differences are noted. Primarily, the tendency to understate preferences would not be so great since the costs for each individual are fixed and cannot easily be decreased by successfully understating one's preferences. That is, it is not so clear that there would be a strong tendency to understate one's preferences, since the basic cost—in terms of compliant behavior—tends to be an either/or alternative. The same costs—constrained behavior—must be paid regardless of how much or how little the benefits are desired.[2]

The more fundamental need for the provision of coercive sanctions in public goods theory centers around the tendency not to want to pay at all, since the benefits are forthcoming anyway. This is at the heart of the problem of the free rider in the theory of public economy and in the analogous situations in public law. As with traditional public goods, it would appear that a collectivity of rational men, under whatever decision-rule they were operating, would be able to agree to undertake the production of a public policy whose costs were financed through constrained or limited behavior *only if* there was a set of coercive sanctions to act as an additional incentive to contribute to the good and guarantee that it would be produced. As in the provision of traditional public goods, they would agree among themselves to adopt a system of sanctions so that each of them could be assured that the others would contribute their share of the costs, in order that there should be a guarantee that collective benefits would be forthcoming in adequate quantity. It would be rational for each person to agree to be placed in the coercive system in order to assure that all others would likewise contribute their share of the costs (constrained behavior) to the collectively shared benefits.

This is not to argue that all persons obey these types of laws solely from fear of legal sanctions. What are high costs in terms of constrained behavior for some, might be negligible costs or even positive benefits for others, and

hence the importance of the sanctions in securing compliance would vary. Certainly in regard to many forms of human conduct, many persons' patterns of behavior would be the same whether specified by a legal rule and sanction or not. However, the collectivity is not assured of a general state of being, i.e., the securing of the collective benefits, in the absence of such a system of efficacious sanctions. The divorce of the cost from the benefit is the source of this problem.

It should be emphasized that here too the need and desire for a system including coercive elements would be forthcoming under any type of operating rules. It would be desired and needed even in a situation requiring unanimous consent in which everyone perceived the law as beneficial. That is, in order to protect against the actions of a person who earnestly wanted the benefits, but who also earnestly disliked paying the costs, it would be rational for everyone to agree to institute a penalty for noncompliance. Given this conception, coercive sanctions take on an important and seemingly paradoxical function in even the most homogeneous of groups: they serve as incentives to get people to contribute to the collective goal that they support. The ubiquity of systems of coercive sanctions, even in highly homogeneous and seemingly consensual societies tends to add some support to this proposition.[3]

And as a group's decision-rules depart from unanimity (e.g., simple majority rule of the entire group, representative assemblies, administrative rule-making), the possibility of particular laws being regarded as "public bads," i.e., undesirable collective "benefits," would increase for some individuals and subgroups. It would be expected here that for some groups the need for a coercive system would increase as the value of the collective benefits decreased. Here individuals would be expected to pay costs for a "benefit" they regarded as negative, hence there would be a two-fold basis for not wanting to comply. This outlook could become particularly significant if a homogeneous and concentrated subgroup in a population refused to view the collectively produced object of the law as a truly public "good." Such an example is seen in the various civil rights provisions aimed at overcoming racial segregation in the South. Here, "outsiders" have forced laws down the throats of unwilling southern whites and, needless to say, have met with strong opposition.

In the above discussion a fundamental point was argued: because of the public goods nature of some laws, it cannot be expected that individuals will achieve a state of marginal equilibrium at the adoption of each law, even operating under decision-rules requiring unanimous consent. Furthermore, the public goods nature of these laws precludes the possibility of the voluntary procurement of the collective policy even if unanimously desired. Consequently, there is the need and rational desire for a system of coercive sanctions. An examination of the implications of this argument will produce some interesting results. Perhaps foremost is the fact that if we can conceive

of a law as a public good, then sanctions will not be designed primarily to "convince" or "oblige" the reluctant recipient of the legal benefits bestowed upon him. Nor will they be designed primarily to protect society from those few irrational, anomic individuals who seek to wreak havoc on others and themselves. While it is certainly the case that coercive sanctions are used to secure compliance from both of these types, its main function is more general. It is to help compel rational, maximizing individuals who want and enjoy the benefits of the law to contribute to the costs of providing those benefits by obeying the law. A primary function of these coercive sanctions then is directed not at the irrational, but the rational; not at the deviant, but the normal; not at the dissenter, but the proponent.

Formal, legal sanctions in this formulation, then, take on a considerably broader and more important position in the explanation of compliance to legal rules than they are usually given, and go some way toward reviving the Austinian conception of law, albeit in a more limited and radically different form. Even those theorists who have postulated individual self-interest as an axiom have tended to ignore the problem of compliance or have tended to develop some type of "exchange" theory of compliance by ignoring the discrete characteristics of each public goods type law. Still other discussions of law emphasize the irrational, deviant, and anomic characteristics of convicted noncompliants, and fail to adequately consider the motives and characteristics of the more numerous and more skillful unconvicted noncompliants and compliants.[4] The implicit presumption of these approaches seems to be that it is normal and expected that one would voluntarily comply, and thus the problem is solely to explain the "deviance." This paper has attempted to begin to examine the other side of this problem and to explore what I think is the prior, more basic and infinitely more difficult question, why people comply with the law.

SUMMARY

What this discussion has tried to do is to conceptualize the double-edged problem of compliance and noncompliance to laws in terms of rational choice applied to a set of individual-choice situations. Each situation involving behavior governed by a legal norm can be regarded as a choice situation in which the rational actor must undertake a process of calculation to determine his course of behavior. What particularly distinguishes choices involving legally prescribed behavior from choices of other social actions are the *legally prescribed sanctions* attached to the law. This introduces an additional element into the decision process, though its importance would, of course, vary widely among individuals depending upon their intensities of preference, estimates, perceptions, and values.

In the discussion above, it has been suggested that the coercive element in law might play a larger part in the securing of compliance than it is frequently given. In particular, an "exchange" model accounting for the acceptance of and compliance to laws has been briefly explored and rejected. The public goods nature of at least some (particularly criminal) laws caused the rejection of such an explanation of compliance. By pursuing an "economic" approach to the problem, albeit not an "exchange" or market model, it was suggested that coercive sanctions would take on an additional importance beyond what most models of compliance and noncompliance afford them. It was seen that for some situations, even where everyone regarded the law as beneficial, not even the consensus on the goals would necessarily result in compliance in the pursuit of the goals. This "free rider" phenomenon helps, I think, explain why so many seemingly "well-adjusted" and upright citizens, who appear to share the legally institutionalized norms and values of their communities, frequently violate those norms. The attainment of the desired goal and a particular individual's behavior are not necessarily dependent upon each other. Thus the function of the coercive element of law is not only to curb the behavior of those who do not subscribe to the purpose or goal of the legal rule, but is much broader—to curb *all* those who do not want to pay a particular set of costs, and who *may* or *may not* support or accept the collective goal the legal rule seeks to obtain. This interpretation or approach, then, goes a long way toward resolving the classical paradox faced by students of law: "If a law is not supported by the mores of the community, it is ineffectual; if it is, the law is unnecessary."

While this discussion has not produced a "model" or "theory" of compliance and noncompliance, it has, I think begun to suggest some considerations which any such theory must deal with, namely, the function of the coercive element attached to the law. It has suggested a broader function of the coercive element than most discussions of compliance and noncompliance and "deviant behavior" attribute to it. Furthermore, this discussion has suggested a framework for conceptualizing the twin problems of compliance and noncompliance. A type of cost-benefit or rational-choice analysis has been suggested, in which individuals are assumed to make social choices on specific, substantive matters in order to maximize utility. In this framework, then, the coercive provisions of law are regarded as "cost factors" in the calculus of decisions affecting behavior governed by legal rules. The decision to comply or not to comply (or some degree in between) to a law would entail a consideration of the likelihood and magnitude of the application of a coercive sanction as a cost to be weighed against the possible benefits accruing through some course of action.

While most economic theories of choice have dealt with discussions to adopt consititutional or fundamental rules for a polity (i.e., rules of the game rather than specific decisions under a particular rule), a few theorists have

begun to extend the analysis to particular or substantive social-choice situations as has been the case in this discussion. For instance, Professor Coleman (1966a) has briefly discussed alternatives to the acceptance of a system of constitutional rules, revolt, and emigration. Professor Ireland (1967: 50) has attempted to raise and formalize the problem about the "point at which the individual will resort to revolution and what factors will he take into consideration." In this paper I have discussed and suggested a similar rational choice approach, but have applied it to a much less grand set of alternatives than those of revolution and emigration. Here the focus has been on the functions of the coercive sanctions in law and the calculus of the rational individual in his decisions to comply with or violate the laws selectively in a political system of which he himself may well approve. It is probably this concern for the less dramatic types of social-choice situations that will eventually lead to the most fruitful insights and theories of social cohesion.

NOTES

1. Olson (1965: 22-65) has developed this point in the context of interest group formation, and it seems appropriately raised here in regard to the individual decision to participate in the implementation of a particular policy enactment.

2. This might be challenged, however. Consider a situation where individuals argue that they will benefit only slightly from a public goods law. Since the costs are not subject to reduction, by convincingly understating their preferences, they might successfully hold out for some other type of compensation above the public goods benefits. Some have tended to characterize the OEO payment to Chicago's Blackstone Rangers in these terms. But even here the compensation is distinct from the decision to comply or not. And since the effect of attempts to induce increased compliance by forms of compensation is not crucial to the present argument, it will not be pursued further here.

3. For a neo-Austinian conception of law, which emphasizes the coercive element, see the discussions and analyses of several primitive legal systems by E. A. Hoebel (1954).

4. Richard Schwartz (Schwartz and Orleans, 1967) has begun to make a small step to correct this misbalance of investigation. His findings in a recent study attest to the importance of legal sanctions in securing widespread compliance to tax law among supposedly well-adjusted and prosperous members of the middle class. Such evidence, while sketchy and tentative, adds some support to the theoretical formulation of the importance of sanctions presented in this paper.

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