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Understanding Legal Compliance

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WHY PEOPLE OBEY THE LAW. By *Tom R. Tyler.* New Haven: Yale University Press. 1990. Pp. vii, 273. $30.

Why *do* people obey the law? In his new book, Tom Tyler argues against one popular answer to this question: the view that compliance follows from, and must be justified in terms of, self-interest. This *instrumental* view of compliance — that people obey the law because it is in their interest to do so — is found in law and across the social sciences under such labels as public choice theory, rational choice or rational actor models, deterrence theories, and theories of learning or exchange.[1] Tyler's work is a serious challenge to the instrumental view. Theoretically and empirically, Tyler makes a powerful case that what he calls *normative* considerations are central to the public's decisions about compliance. That is, people follow the law because it is the right thing to do.

The overall normative argument has three key pieces. First, the book addresses the question of what motivates *compliance* with law (p. 40). Tyler's answer is that two normative factors, the citizen's personal moral standards and the citizen's sense that the legal demand is legitimate, dominate decisions about legal compliance (p. 64). He concentrates on legitimacy because it is more readily modifiable by legal authorities (p. 65). Second, Tyler turns to the determinants of *legitimacy* (p. 45), including changes in perceived legitimacy that occur in reaction to experiences with the police or courts (p. 94). Tyler finds that normative rather than instrumental considerations are most important in shaping the sense that laws or orders ought to be obeyed. In particular, a crucial determinant of legitimacy is the justice or injustice of the procedures that authorities follow (p. 102). Third, Tyler examines the components of *procedural justice* itself.[2] Tyler finds that the sense that a procedure is fair is primarily derived from noninstrumental factors: aspects of fairness that have nothing to do with outcomes, but instead include such normative concerns as citizens' opportunities for self-expression (p. 178). Thus, compliance is traced

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1. *See, e.g.,* J. GIBBS, CRIME, PUNISHMENT, AND DETERRENCE (1975); D. MUELLER, PUBLIC CHOICE (1979).

2. Chs. 9-11. For an overview of recent research on procedural justice by Tyler and others, see E. LIND & T. TYLER, THE SOCIAL PSYCHOLOGY OF PROCEDURAL JUSTICE (1988).

to such normative considerations as legitimacy; legitimacy, to such normative issues as procedural fairness; and procedural fairness, to such normative matters as the citizenry having a voice in decisions that affect them.

This conclusion offers considerably more hope — and leeway — for legal authorities than does a strictly instrumental view of compliance. For example, it indicates that legal authorities can maintain a considerable reserve of support through hard times *if* these authorities can convince their constituents that the rules are being drafted and administered fairly. And this fairness need not even be a fairness of outcomes distributed, but a fairness of procedures followed during the distribution.

These are important issues. Therefore it is essential that we examine closely the nature and potential limits of the empirical evidence Tyler brings to bear. He carried out a panel study that began with a random sample of 1575 Chicago residents, interviewed by telephone for approximately twenty-five minutes in the spring of 1984 (p. 8). One year later, a random subset of 804 respondents was reinterviewed. When Tyler examined the effect of actual experiences with the law, the analyses included only those 652 respondents in the first wave and 291 respondents in the second wave who had what Tyler termed "non-superficial" contacts with the police or courts (pp. 12-13). Non-superficial contacts were instances of personal contact in which the respondent had a stake in the outcome (excluding, therefore, experiences such as being a juror) (p. 9). Overall, the book provides a careful account of the sampling decisions, the composition of the sample, and its limitations.

The data set is unusually rich. Many social scientists have generalized about issues of compliance, legitimacy, and justice from much narrower samples, such as undergraduate subjects in laboratory experiments.[3] Few social scientists have taken the trouble to use panel data. A panel — two or more sets of data on the same people — is expensive to obtain and can be cumbersome to analyze. Panel data, however, are invaluable in making clear causal inferences when one's variables cannot be manipulated, but *can* be tracked over time. The effect of a person's experience with the police is a prime example of an issue that cannot ethically be addressed by experimental methods but lends itself well to panel analysis.

Despite — or because of — the unusually rich data, the legal reader may find the data analysis occasionally difficult to digest. Tyler uses relatively sophisticated techniques. At the extreme, these involve structural equation models of the panel data, complete with corrections for attenuation due to unreliability of measurement, using the

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3. Examples include previous research in procedural justice itself. *See* E. LIND & T. TYLER, *supra* note 2.

popular LISREL data analysis package.[4] Any reader who had diffi-
culty with the preceding sentence will find some of the data analysis
slow going. In some chapters it may be tempting to skip to the discus-
sion, but to do so would miss much of the nuance of the argument,
which is often developed in the analyses themselves. Tyler generally
assesses several alternative interpretations and tests his points in sev-
eral ways before drawing conclusions.

Perhaps the main point that may not be salient to the nonsocial
scientist in reading about the more complex models Tyler presents is
that the models are *theories,* not facts. That is, causal models provide
a way of accounting for patterns of interrelationships in the data; they
are not the *only* way of so accounting. Often a number of alternative
models might "fit" the data in a statistical sense. The biggest dangers
— or largest number of alternative models — involve the panel data,
which are the most complex and are based on the smallest sample
sizes. In sum, the book's great empirical strength is its panel study; at
the same time, the panel analyses are the results most in need of care-
ful replication.

Conceptually, Tyler offers us a heartening vision of the par-
ticipatory democratic state. In a nutshell, if the authorities are "good
guys," the citizens will be "good citizens," not because they have to
but because they feel they should (p. 178). I am left, however, with a
few questions outstanding: Are there limits on this vision of legiti-
macy as underlying compliance and procedural justice as underlying
legitimacy? And if so, what are they? I think that Tyler is correct as
regards the importance of normative bases for legal compliance, in
contrast to the instrumental concerns that have dominated recent dis-
cussions.[5] Nonetheless, this model may prove to be limited — perhaps
to politically and economically stable modern democracies as Tyler's
own discussion suggests.

Tyler notes that other researchers have found that revolutionary
leaders tend to concentrate their rhetoric on distributive injustices, not
procedural issues (p. 148). If procedure is so important, why should
revolutionaries concentrate on distributive questions? Perhaps situa-
tions that inspire revolution are simply situations that are so bad as to
bring distributive questions to the fore. Tyler's argument that authori-
ties can "buy time" with a citizenry by following legitimate procedures
may have its limits. When citizens are too short of potatoes, authori-
ties may lose the ability to "buy time" by allowing free speech about
those potatoes.

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4. LISREL stands for linear structural relationships; it is a computer program for solving
structural equations. *See* K. JÖRESKOG & D. SÖRBUM, RELATIONSHIPS BY THE METHOD OF
MAXIMUM LIKELIHOOD, INSTRUMENTAL VARIABLES, AND LEAST SQUARES METHODS (4th
ed. 1986).

5. For examples, see *supra* note 1.

Ultimately, this book provides what may be more important than answers: new questions. For example, what is the relationship between social/political change writ small, such as the adjustment that may occur in an individual's sense of legitimacy after an encounter with legal authorities, and social/political change that is more cataclysmic and collective, such as the social movements that bring down governments? And what is the linkage of each to a vision, or visions, of justice? Tyler's work suggests that normative questions are likely to figure prominently at each level.