Social Desirability Bias vs. Punishment

I break unjust laws all the time. Though I'm proud of my law-breaking, I don't claim to be especially courageous. News flash: I'd rather live on my knees than die on my feet. After all, I've got a lot to live for.

Why then do I choose to be a righteous scofflaw? *Because the expected punishment for breaking the kinds of laws I break is very low.* Government enforcement is rare, and even if I get caught, the sanction will probably be mild.

Which raises a puzzling question: Why are so many laws backed by such trivial punishments? If politicians think that a law is worth passing, why don't they automatically conclude that it's worth assiduously enforcing?

You could just blame noise: Sometimes government sets punishments too high; other times it sets punishments too low. But once government sees widespread violation of a law, why don't they rush to adjust punishment upward? The kinds of laws that I break have had token expected punishments for as long as I can remember.

You could insist that enforcement costs are often too high to induce obedience. But as Becker pointed out long ago, you can compensate for low detection probabilities with draconian punishments. Indeed, if the draconian punishments are hefty monetary fines, the fiscal cost of enforcement is typically *negative*.

So what's really going on? Well, suppose the government announces that it will seize people's homes if they failed to follow a new regulation: "Obey or lose your home." And then the government actually follows through. You watch the news and see the government seizing a little old lady's house. Even if the regulation saved a million lives, people would *despise* the politicians responsible. "Seizing homes saves lives" simply *sounds* bad; if it's true, it is an ugly truth. And as the research on Social Desirability Bias reveals, people hate ugly truths. They don't like to say them, and they don't like to believe them.

When I discuss Social Desirability Bias, I normally focus on its bad effects. It is Social Desirability Bias that leads government to look at every social problem and say "Something must be done!" – even though the best remedy is usually to leave well enough alone.   Still, I have to admit: Social Desirability Bias also loosens the shackles that it places upon us.

Social Desirability Bias prevents business from building new homes: "Horrors, these greedy fatcats want to destroy the character of the neighborhood!" But Social Desirability Bias also prevents government from crushing homeowners who illegally improve their properties. If you want to add a bathroom without proper permits, just go for it. You'll

almost certainly won't be caught – and even if the government finds out, they probably won't do much about it. So why not? Because deploying effective enforcement techniques – surprise home inspections to detect, home seizure to punish – sounds very ugly.

Social Desirability Bias prevents immigration: "This is our country, our culture, and our economy – and we intend to keep it that way." But Social Desirability Bias also prevents government from ending illegal immigration once and for all. East Germany shows that strict border control is totally possible. Don't just build a wall; build a wall with self-firing machine guns. Once you combine this Wall of Death with surprise home inspections and long prison sentences for anyone who employs illegal immigrants, violations will practically disappear.

So why not? Because these brutal measures – the very measures you need to earnestly enforce your immigration laws – sound monstrous. Instead, we combine absurdly restrictive laws with loopholes as massive as they are bizarre. Jose Antonio Vargas has publicly declared himself "undocumented." He's easy to locate. But even Trump didn't try to deport him, because even Trump didn't want to look like such a monster.

The same naturally goes for Covid regulations. Social Desirability Bias yields absurdly strict laws: "If it saves just one life." Yet Social Desirability Bias also prevents the merciless enforcement necessary to achieve compliance with these absurd laws. Recently at the airport I saw ample unmasked faces. If the government had picked out a random scofflaw and hauled him off to prison, the whole airport would have kept their masks on. If the government arrested a hundred such people nationwide and held a press conference vowing to hand out a thousand years of prison time to these "mask criminals," every airport in America would approach 100% compliance. But that ain't gonna happen.

And let's not forget tax evasion. Social Desirability Bias is the foundation of popular "tax the rich" policies. Yet taxpayers have countless ways to fudge the numbers (can you say, "Self-Employment," children?), and to stop this fudging the IRS would have to get medieval. As a result, persecution of the rich co-exists alongside quiet yet ubiquitous defiance.

Key caveat: For real crimes like murder and rape (as well as a few fake crimes like drug-dealing), strict enforcement is almost as crowd-pleasing as the laws themselves. For this subset of offenses, "Lock 'em up and throw away the key" prevails. And of course as social media reminds us, the government occasionally enforces a random regulation with Kafkaesque determination.

Normally, however, we are freer than the law admits. Demagogic policies surround us, but no true demagogue enforces them strictly. The result: As long as you don't call too much attention to yourself, you can pick and choose which laws to follow at surprisingly low cost.

So, I ask you, why not follow your conscience?