

# Motive-Based Enforcement



Universiteit Leiden  
The Netherlands

- Fapesp visit Brazil

# Effect of non-compliance

- Non-compliant behavior (and allowing it) *spreads*
- Kees Keizer, *The Spreading of Disorder* (2010)

Compliant behavior of norm addressees is greatly influenced by the fact whether or not they *observe care and respect of others* (fellow citizens) for these and indeed more generally other norms



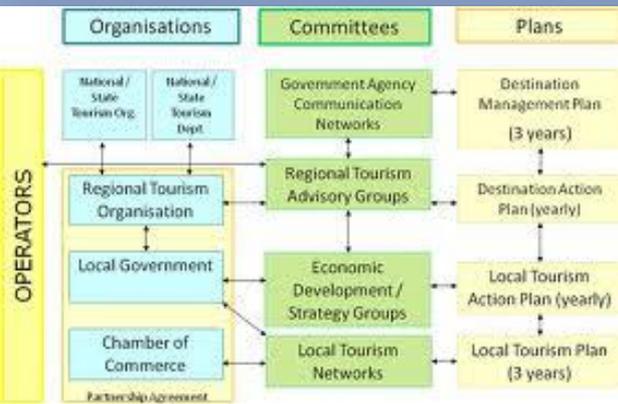
# Why do we comply?

- Two main modern theories in regulatory theory:
  - 1. Principle actor theory
  - 2. Constructivist theory



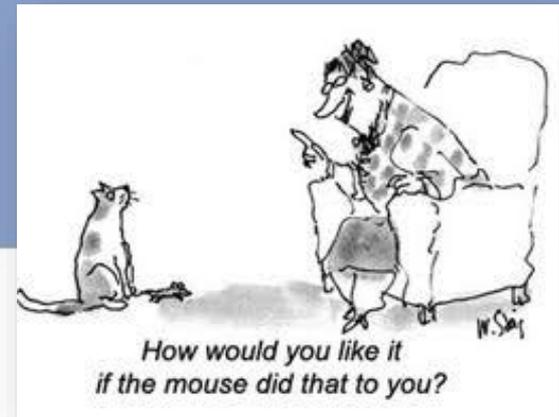
# Principle actor theory

*Departs from the notion that the principle actor to compliance is government (the administration itself) – administrative effort inspires compliance (by means of communication, due process, sanction)*



# Constructivist Theory

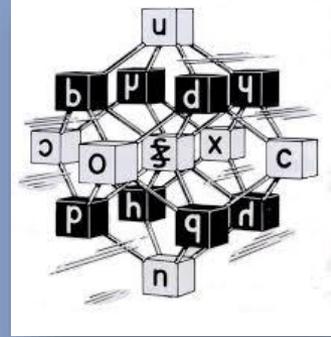
- Compliance is dependent on the way regulatory norms tie in or align with the beliefs of the addressee
- Main driver for change of behavior is not external (administrative action, sanction), but internal – the socialization and internalization of the rule by the addressee
- If regulators succeed in convincing a rule is good, necessary, legitimate, etc. compliance will follow
- Constructivism offers no short term answers to compliance problems



# ...In practice

- Most governments work on the basis of **Administrative logic** (departing from the idea that:
  - **Government = the principle actor to compliance**
  - **When government makes extra efforts** (stiffen penalties & sanctions, increases inspection, enforces more) **compliance will increase in a more or less linear way**
  - **Toolkits, methods (e.g. in the Netherlands)**

# But.....



- There is, research shows, at best an uncertain relation between government enforcement action and compliance
- **Administrative logic is not working** (and very costly)
- Better to tie in with beliefs & work on the basis of the **logic of motives** (tie in with *why* people obey the law: moral conviction & copy what others do)

# The sum of recent research

- 1. Does criminal law deter, does stiffening penalties help, does increasing enforcement help?
- No not as such, not (stand) alone



# The sum of recent research

- Deterrence *alone* will not help – we also have to tie in with **motives** (nudges, communication, carrot-stick, social stigma) – and capitalize on ‘beliefs’ (appeal to morality, educate)
- **2. Administrative enforcement efforts do not equate compliance rates** (no one-on-one)

# The sum of recent research

- 3. Threat of punishment does not **directly** act as motive for compliance but rather **indirectly** – **the Bandwagon effect**
  - Compliant behavior, or enforcement activities that demonstrates or reminds us of the existence of a norm, prompt (more) compliant behavior
  - Simply stiffening penalties or increasing enforcement efforts does not

- Thank you for your kind attention!

