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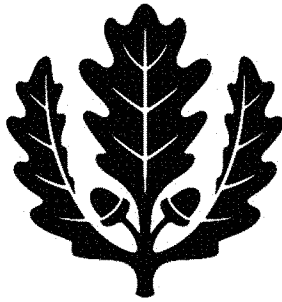
How People Judge Institutional Corruption

ELINOR AMIT, EUGY HAN, ANN-CHRISTIN POSTEN
& STEVEN SLOMAN

Institutional corruption refers to actions that are legal yet carry negative consequences for the greater good. Such legal yet harmful behaviors have been observed among politicians and donors who establish quid-pro-quo relationships in exchange for money and among doctors who receive gifts from pharmaceutical companies in return for recommending the companies' drugs. How does the general public reconcile the tension between the legal status of an action and its impact on the greater good and judge the action's moral acceptability? We explored this question empirically by comparing the relative weight people give to the legal status of actions and to the impact of actions when judging moral acceptability. Results show that people unequivocally rely on legal status and ignore the impact of the actions. We conclude that people outsource their moral judgments to the law. The law does not simply reflect people's sense of corruption but determines it. Together, our research suggests a surprising and ironic role for the law: that it diminishes independent, critical thinking.

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How People Judge Institutional Corruption

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Former CEO of Turing Pharmaceuticals, Martin Shkreli, gained a high profile in 2015 when he purchased the rights to a lifesaving HIV drug, Daraprim, and hiked up its price by more than 5000%.[1] While such acts of price gouging can often be observed in business, Shkreli's act created controversy because Daraprim is on the World Health Organization's List of Essential Medicines.[2] Though Shkreli was heavily criticized, he justified his actions with the response: "[E]verything we've done is legal."[3] Shkreli was right. His actions, potentially ruining the lives of a large number of people, were legal. And he was not alone. Legal actions that result in terrible consequences are, in fact, quite common, from pharmaceutical companies partnering with doctors to prescribe their more expensive drugs,[4] to politicians who establish quid-pro-quo relationships with donors who anonymously give them unlimited amounts of money,[5] to the

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[1] Robert Mclean, *Turing Cuts Hospital Price for Drug It Hiked 5,000%*, CNNMONEY (Nov. 25, 2015, 8:17 AM), https://money.cnn.com/2015/11/25/news/companies/turing-pharmaceuticals-daraprim-price-drop/.

[2] *Id.*

[3] *See* ROBERT B. REICH, THE COMMON GOOD 10 (2018) (describing Shkreli's response to criticism of the Daraprim price hike); Richard Mark Kirkner, *Drug Pricing Regulation Pushed from Many Sides*, MANAGED CARE, Jan. 2016, at 14, 15 (noting criticism of Shkreli and Turing by 2016 presidential candidates and Merck CEO).

[4] *See* Lisa Cosgrove & Robert Whitaker, *Finding Solutions to Institutional Corruption: Lessons from Cognitive Dissonance Theory* 16–19 (Edmond J. Safra Ctr. for Ethics, Working Paper No. 9, 2013), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2261375 (explaining how relationships between doctors and pharmaceutical companies create conflicts of interest and worsen quality of care); BEN GOLDACRE, BAD PHARMA: HOW DRUG COMPANIES MISLEAD DOCTORS AND HARM PATIENTS 316 (2012) (describing how senior doctors were paid by pharmaceutical companies to promote their drugs, changing the prescribing behavior of other doctors).

[5] *See* Elinor Amit et al., *Institutional Corruption Revisited: Exploring Open Questions Within the Institutional Corruption Literature*, 26 S. CAL. INTERDISC. L.J. 447, 453 (2017) (explaining how the current United States campaign finance system results in the "donor class" exerting a disproportionate political influence); Girish J. Gulati, *Super PACs and Financing the 2012 Presidential Election*, 49 SOCIETY 409, 409 (2012) (explaining that the relationship between candidates and donors threatens democratic governance and creates opportunities for corruption); Jonathan Mendilow & Michael Brogan, *Perceptions of Corruption and Trust in Government in the United States*, in CORRUPTION AND GOVERNMENTAL LEGITIMACY: A TWENTY-FIRST CENTURY PERSPECTIVE 59, 62 (Jonathan Mendilow

President of the United States who does not shy away from conflicts of interest by maintaining control over his private business while in office.[6] All of these examples have one thing in common: the action is legal yet carries negative consequences for the greater good.

Tension between the legal status of an action and its impact on the greater good poses a particular type of challenge when judging its moral acceptability. In a democratic society, laws are expected to represent the interests of its people, protect the greater good from individual misconducts, or at the very least not harm the society. While this is usually true, lawmakers cannot foresee each and every incident in which the law will be relevant. As a result, some legal behaviors may end up harming the greater good. Such legal yet harmful behaviors have been observed in research, design, manufacturing, and marketing processes of new products and policies released by various institutions.[7] For instance, gaming companies use legal yet socially irresponsible marketing strategies and tactics to target vulnerable populations and encourage gambling.[8]

In the farming industry, hog, poultry, and cattle farms often use legal antibiotics as a feed additive to stimulate artificial growth in their livestock.[9] Through overuse, these antibiotics eventually become ineffective for bacterial infections, which people often contract through meat consumption and drinking infected water.[10] As more and more antibiotics are becoming ineffective, new, usually more expensive, drugs have to be developed, leaving many individuals with no viable methods of treatment.[11] This is one of many deadly but legal[12] practices exercised by the farming industry. Big factory farming industries often lobby for

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& Ilan Peleg eds., 2016) (noting that a quid pro quo between donors and politicians is the "most flagrant form of political corruption").

[6] Steve Reilly et al., *Did Trump Keep His 19 Promises to Insulate Himself from His Business? Only He Knows.*, USA TODAY, https://www.usatoday.com/in-depth/news/politics/2019/03/18/president-donald-trumps-promises-didnt-end-business-entanglements/3030377002/ (last updated Mar. 18, 2019, 9:08 PM).

[7] *See* Nikos Passas, *Lawful but Awful: 'Legal corporate crimes'*, 34 J. SOCIO-ECON. 771, 777 (2005) (noting that the activities of several industries generate "hidden costs" that are mainly borne by the least privileged); John Warren Kindt, *The Costs of Legalized Gambling: An Economic Approach, in* IT'S LEGAL BUT IT AIN'T RIGHT: HARMFUL SOCIAL CONSEQUENCES OF LEGAL INDUSTRIES 115, 124 (Nikos Passas & Neva Goodwin eds., 2004) (explaining how the gambling industry targets lower income individuals and encourages excessive gambling by "consistent gamblers").

[8] June Buchanan et al., *The Marketing of Legal but Potentially Harmful Products and Corporate Social Responsibility: The Gaming Industry View*, 4 INT'L J. INTERDISC. SOC. SCI. 81, 84 (2009).

[9] Mallory Russo, Food for Thought: Analyzing the Impacts of Livestock Factory Farming in the United States 40 (May 15, 2017) (unpublished B.A. thesis, Fordham University) (on file with Fordham University Libraries); Mark Ritchie, *The High Price of Cheap Food, in* IT'S LEGAL BUT IT AIN'T RIGHT: HARMFUL SOCIAL CONSEQUENCES OF LEGAL INDUSTRIES 178, 180 (Nikos Passas & Neva Goodwin eds., 2010).

[10] Ritchie, *supra* note 9, at 185.

[11] *Id.*

[12] *Id.*

government regulations and laws that can profit their operations, allowing them to sustain inadequate facilities and exploit environmental resources.[13] These actions lead to irreversible consequences such as extinction of species, deadly working conditions for workers (e.g., farm workers are exposed to harmful chemicals and may die from asphyxiation), land and soil degradation, water contamination, and exacerbation or climate change.[14] While such practices adhere to legal requirements, they bring harm of various degrees to society.

How do people resolve this conflict and judge the moral acceptability of legal yet harmful actions? This question is important, because people's moral judgments determine a wide variety of behaviors, from purchasing products,[15] to protesting against companies,[16] to voting for or against politicians in public elections.[17]

In recent years there has been a growing interest in behaviors which are legal yet harm the greater good, collectively labeled as "institutional corruption."[18] According to the classic definition by Lessig (2013):

> *Institutional corruption* is manifest when there is a systemic and strategic influence which is legal, or even currently ethical, that undermines the institution's effectiveness by diverting it from its purpose or weakening its ability to achieve its purpose, including, to the extent relevant to its purpose, weakening either the public's trust in that institution or the institution's inherent trustworthiness.[19]

A surge of research on institutional corruption in the past decade has examined its manifestations in various domains, including: the pharmaceutical industry,[20] psychiatry,[21] food production and distribution

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[13] Russo, *supra* note 9, at 35.

[14] *Id.* at 16, 43.

[15] *See* Johannes Brinkmann, *Looking at Consumer Behavior in a Moral Perspective*, 51 J. BUS. ETHICS 129, 129 (2004) (claiming that "business ethics and consumer behavior could profit from further development of their overlap"); Oliver M. Freestone & Peter J. McGoldrick, *Motivations of the Ethical Consumer*, 79 J. BUS. ETHICS 445, 445 (2008) (discussing the rise of consumer action "in the form of boycott activity, pressure groups and other forms of consumer activism").

[16] Norman E. Bowie & Thomas W. Dunfee, *Confronting Morality in Markets*, 38 J. BUS. ETHICS 381, 385, 389 (2002).

[17] *See* JASON BRENNAN, THE ETHICS OF VOTING 1–2 (2011) (arguing the moral significance and ethical implications of voting).

[18] *See* Amit et al., *supra* note 5, at 448 (describing the increased scholarly attention to institutional corruption). Lessig provides a definition for institutional corruption in Lawrence Lessig, *Foreword: "Institutional Corruption" Defined*, 41 J.L. MED. & ETHICS 2, 2 (2013).

[19] Lessig, *supra* note 18, at 553 (emphasis added).

[20] *See* sources cited *supra* note 4 (illustrating the influence pharmaceutical companies have over doctors); *see also* Garry C. Gray, *The Ethics of Pharmaceutical Research Funding: A Social Organization Approach*, 41 J.L. MED. & ETHICS 629, 629 (2013) (illustrating the subtle ways pharmaceutical industry funding influences medical research); Donald W. Light, *From Institutional*

companies,[22] and political campaigns.[23] For example, research on the pharmaceutical industry has revealed that funding from drug companies influences medical researchers to produce favorable reviews of the company's products, thus enabling a significant number of harmful drugs to reach the market.[24] This undermines pharmaceutical companies' mission of improving patient care and public health and promoting drug safety.[25] Similarly, in the field of psychiatry, financial conflicts of interest have compromised biomedical research, teaching, and practice.[26] Organizations such as the American Psychiatric Association (APA) receive substantial funding from the drug industry, and many of the individuals who serve as diagnostic panel members have ties with the drug industry.[27] "Industry financial relationships can . . . affect researchers' and clinicians' behavior in subtle ways" potentially influencing "decisions about the criteria for and measurement of diagnoses."[28]

Institutional corruption has also been observed in political campaigns.[29] For instance, the creation of super political action committees (super PACs) in 2010 sparked significant controversy, as committees were allowed to receive and spend unlimited sums of money on independent

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Corruption to Pharmageddon?, 1 LAB DISPATCHES 69, 69–70 (2013) (reviewing David Healy's observation that the FDA and pharmaceutical companies have major influence over the medical industry); Marc A. Rodwin, *Conflicts of Interest, Institutional Corruption, and Pharma: An Agenda for Reform*, 40 J.L. MED. & ETHICS 511, 511 (2012) ("Physician relations with pharmaceutical firms are a source of conflicts of interest that can bias their prescriptions and advice.").

[21] *See* ROBERT WHITAKER & LISA COSGROVE, PSYCHIATRY UNDER THE INFLUENCE: INSTITUTIONAL CORRUPTION, SOCIAL INJURY, AND PRESCRIPTIONS FOR REFORM 4 (2015) (examining the societal impacts of the psychiatry field); Lisa Cosgrove & Emily E. Wheeler, *Industry's Colonization of Psychiatry: Ethical and Practical Implications of Financial Conflicts of Interest in the DSM-5*, 23 FEMINISM & PSYCHOL. 93, 93 (2013) (arguing that modern psychiatry has been captured by the pharmaceutical industry); Marc-André Gagnon, *Corruption of Pharmaceutical Markets: Addressing the Misalignment of Financial Incentives and Public Health*, 41 J.L. MED. & ETHICS 571, 574 (2013) (highlighting how new anti-psychotic drugs dominate the market despite being more expensive and less effective than older drugs).

[22] *See* Amit et al., *supra* note 5, at 450 (discussing the case of Del Monte Foods); *see also* Sylvia Rowe et al., *Funding Food Science and Nutrition Research: Financial Conflicts and Scientific Integrity*, 67 NUTRITION REVIEWS 264, 264–65 (2009) (describing issues of conflict and scientific bias in the food industry); Wendy Wagner & David Michaels, *Equal Treatment for Regulatory Science: Extending the Controls Governing the Quality of Public Research to Private Research*, 30 AM. J.L. & MED. 119, 142 (2004) (discussing the Food and Drug Administration's conflict policy).

[23] *See* sources cited *supra* note 5; *see also* Malcolm S. Salter, *Lawful but Corrupt: Gaming and the Problem of Institutional Corruption in the Private Sector* 2, 24 (Harvard Bus. Sch., Working Paper 11-060, 2010) (describing the scope and size of private money influencing Congress).

[24] *See* sources cited *supra* note 4 (illustrating the influence pharmaceutical companies have over doctors).

[25] *See* sources cited *supra* note 18 (discussing institutional corruption).

[26] Cosgrove & Wheeler, *supra* note 21, at 94.

[27] *Id.* at 102.

[28] *Id.* at 97.

[29] Gulati, *supra* note 5, at 409.

campaigning in support of or in opposition to political candidates.[30]
Politicians receiving unlimited anonymous donations from super PACs
suggested that there could be a disproportionate influence on policy and
electoral outcomes.[31]

Despite its importance, determining which behaviors fall under the
category of institutional corruption is challenging. Even amongst experts
there is disagreement over what counts as institutional corruption. In a
survey we conducted, a set of ten scenarios that represent different facets
of institutional corruption was presented to members of the Edmond J.
Safra Center for Ethics at Harvard University—all of whom were experts
on the topic of institutional corruption research. These scenarios covered
topics that are relevant for the concept of institutional corruption in various
settings and were selected based on the research of the fellows of the
center. In this survey, the experts were asked to judge whether the
scenarios represent institutional corruption. For half of the scenarios we
presented, 30% of the subjects or more thought that they do not represent
instances of institutional corruption. The results illustrate the challenge in
clearly identifying instances of institutional corruption, even by experts.

The current paper is concerned with how the public morally judge
instances of institutional corruption. We bring evidence that institutional
corruption is perceived as more morally acceptable than criminal behavior,
even when the portrayed action is identical except for its legal status.
Moreover, although people's moral judgments are sensitive to information
about the legal status of the action—what we henceforth deem the
distinguishing characteristic between institutional corruption and criminal
action—people are not sensitive to information about the magnitude of the
harm caused by the action. Thus, cases of institutional corruption with
horrible consequences are judged as more morally acceptable than criminal
actions with benign consequences. Together, our research suggests a
surprising and ironic role for the law: that it diminishes independent,
critical thinking. While criminal actions that have mildly negative
consequences can be construed as immoral, institutional corruption will be
seen as moral despite having terrible consequences.

I. EMPIRICAL EVIDENCE

The following experiments were designed to investigate how people
judge institutional corruption versus criminal actions. Moral scenarios
were presented, and people judged the moral acceptability of the action of
a protagonist. We varied whether an action was institutional corruption or
criminal by manipulating the legal status of the action: for the "institutional

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[30] *Id.* at 410.
[31] *Id.* at 409.

corruption" group the action was presented as legal, and for the "criminal behavior" group the action was presented as illegal. All the presented actions had a negative impact on the greater good. Additionally, we varied the severity of the direct consequences of the actions. Research shows that actions with bad consequences are judged as less morally acceptable than those with less bad consequences.[32] We therefore wanted to rule out the possibility that people's judgments are contingent on a particular outcome.

A. *Experiment 1A*

   1. *Participants and Design*

   Participants were 131 MTurkers (75 females; Mage = 34.06, SD = 11.15) who participated in exchange for payment. The participants were randomly assigned to one of the four conditions of a 2 (Legality: Legal vs. Illegal) x 2 (Impact: Small vs. Large) between-subjects design. In this and all subsequent studies: (A) we set a sample size based on previous research that had used similar methods and stimuli[33]; (B) our only a-priori selection criteria was recruiting subjects residing in the United States; and (C) we did not exclude any subject from the analysis. Any gap between the number of subjects recruited and reported in the "Participants" section and the final analysis are due to incompletion of the questionnaire by subjects (less than 0.5% of the recruited subjects in each experiment).

   2. *Procedure*

   Subjects were asked to read three scenarios that described actions of a protagonist. Half of the subjects were informed that this action is legal, and the other half that it is illegal. In each of these groups, half of the subjects were informed that the action is slightly harmful and the other half that it is significantly harmful. After reading each scenario, the subjects were asked whether the actions of the protagonist are morally permissible on a scale that ranged between 1 (completely impermissible) to 7 (completely permissible). The subjects were subsequently asked whether the action of the protagonist is legal on a scale that ranged from 1 (completely legal) to 7 (completely illegal) and how would they rate the impact of the action on a scale that ranged from 1 (negligible impact) to 7 (strong impact). Finally, in this and all subsequent experiments, subjects were asked several demographic questions, including gender, age, whether they live in the

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[32] *See, e.g.*, Elinor Amit & Joshua D. Greene, *You See, the Ends Don't Justify the Means: Visual Imagery and Moral Judgment*, 23 PSYCHOL. SCI. 861, 861 (2012) (discussing how a consequentialist judgment that "favor[s] the greater good" is often deemed to be more morally salient); Jonathan Baron, *Nonconsequentialist Decisions*, 17 BEHAV. & BRAIN SCI. 1, 3 (1994).

[33] Elinor Amit, Jonathan Koralnik & Ann-Christin Posten, Mental Imagery of Institutional Corruption (unpublished manuscript) (on file with authors).

United States, what is their native language, level of education, income (range), whether they support federal regulation, how liberal versus conservative they are with regards to economic and social issues, and who they voted for in the last election.

The three scenarios are presented below. In the following scenarios, legal actions appear in the text; illegal in parentheses. Big impact appears in the text; small impact in parentheses.

i.   Scenario 1 (hospital)

Suppose there is a head of a hospital network who receives money from a pharmaceutical company to give a talk. The head of the network then contemplates changing the hospital network's electronic drug prescribing system from prescribing generic drugs as the default to prescribing brand name drugs as the default. Changing the default option from generic to brand name drugs has been shown to increase the percentage of brand name drugs prescribed. While the brand name drug is effectively identical to the generic, the brand name costs patients and insurance companies more, and earns the drug company more. The hospital director decides to change the electronic drug prescribing system to make brand name drugs the default. The increase in the percentage of brand name drugs prescribed causes patients and insurance companies to pay significantly (slightly) more for medications. According to the State Medical Board, it is legal for doctors to accept payments from pharmaceutical companies of up to $10,000 ($4000). The pharmaceutical company paid the doctor $7000.

ii.   Scenario 2 (coal)

Under the U.S. Clean Air Act, the Environmental Protection Agency (EPA) sets limits on certain pollutants. State governments can choose to make the state laws stricter than those of the EPA, though no state can have more lenient laws than those of the EPA. Suppose there is a CEO of a coal factory who is deciding whether to increase the energy produced by the plant. In order to produce energy, the factory burns fossil fuels, which emit air pollution into the surrounding towns. Notably, the percentage of residents in the closest town that have asthma is significantly (slightly) greater than the national average. According to the state law, it is legal for the coal factory to emit up to 40,000 (20,000) tons per year. The CEO decides to increase the factory's air pollution emission to approximately 30,000 tons per year to meet his energy goals.

iii.   Scenario 3 (army)

Suppose there is a retired army general who serves as a director at a defense contractor and also advises the Department of Defense (DoD). As a director of a defense contractor, his job is to advocate for the weapons his

company produces. However, as an advisor, his job is to help find and purchase the most effective weaponry for the United States Army. The American military relies on the Department of Defense to choose top quality weapons. The general advises the DoD in favor of choosing his company's products and the Department decides to follow his advice. Notably, some of the weapons sold by his company may not be the most cost-effective choices. Because of the cost of these weapons, the Army will have to significantly (slightly) decrease the budgets of other agencies. According to federal law, it is legal for DoD advisors to withhold information about conflicts of interest on purchases under $30 ($20) billion. The general advises the DoD to purchase his weapons from his defense contractor for $25 billion.

3. *Analyses and Results*

We conducted a multivariate analysis of variance (MANOVA), with legality (legal, illegal) and impact (small, large) as factors, and moral judgment, legality judgment and impact judgment as dependent measures. The results show that the legal status of the action affected moral judgments such that actions that were legal were judged to be more morally permissible than actions that are illegal (Ms = 3.5 and 2.08, respectively); F (1, 127) = 35.38, p < .001, η^2 = .22. In contrast, the severity of the consequences of the action did not affect moral judgment (Ms = 2.8 and 2.8, respectively); F (1, 127) = 0.02, p = .877. There was no interaction between legality and consequences F (1, 127) = 0.19, p = .663. Legal actions were perceived as more legal than illegal actions (Ms = 3.2 and 6.02, respectively); F (1, 127) = 87.23, p < .001, η^2 = .4. Legality also affected perceived impact: legal actions were perceived to have smaller impact than illegal actions (Ms = 5.09 and 4.6, respectively); F (1, 127) = 3.94, p < .049, η^2 = .03.

In order to further explore the results, we investigated whether political orientation affects the relative weight people give to legality versus morality. Among our 131 subjects, 48 mentioned that in the 2016 presidential elections they voted for Hillary Clinton, and 33 for Donald Trump (the rest either did not disclose or gave other names). For the ease of interpretation of the effect of political orientation on moral judgments, we analyzed only subjects who endorsed Clinton or Trump. The results show that legal actions were judged as more morally acceptable than illegal actions (Ms = 3.43 and 1.89, respectively); F (1, 73) = 22.98, p < .0001, η^2 = .23. The rest of the effects were not significant. Thus, political orientation did not affect moral judgments nor interact with legality or impact.

B. *Experiment 1B*

1. *Overview*

In Experiment 1B, we replicated the procedure of Experiment 1A using a different set of scenarios.

2. *Participants and Design*

Participants were 130 MTurkers (79 females; Mage = 36.98, SD = 11.90) who participated for a payment in the experiment. The participants were randomly assigned to one of the four conditions of a 2 (Legality: Legal vs. Illegal) x 2 (Impact: Small vs. Big) between-subjects design.

3. *Procedure*

The method of Experiment 1B was identical to that of 1A, with a different set of scenarios. The scenarios used in this experiment appear below. In the following scenarios legal actions appear in the text; illegal in parentheses. Big impact appears in the text; small impact in parentheses.

   i.   Scenario 1 (CEO)

        Suppose there is a CEO of a large food chain who must decide whether to offer products containing ABA, a chemical compound that is often used in plastic containers and canned food. This chemical is cost-effective; using it minimizes costs and maximizes profit margins. The CEO decides to offer the products that contain ABA. Notably, ABA consumption is significantly (slightly) correlated with an increased health risk of headaches and nausea. According to the U.S. Food and Drug Administration (FDA), it is legal to sell foods containing up to 2 mg (1.5 mg) of ABA. The products the CEO decides to offer contain up to 1.75 mg of ABA.

   ii.   Scenario 2 (scientist)

   Suppose a scientist who works for a pharmaceutical company runs several studies to investigate the safety and efficacy of a new medicine. The scientist obtains mixed results. Some show that the drug is safe and effective. Others show no effect of the drug. Some further studies also reveal a significant (slight) correlation between using this drug and experiencing various side effects, such as increased blood pressure. The scientist decides to re-run the studies that had the best results. These results confirm the positive findings from before. The scientist only publishes the positive results in the medical literature. The FDA approves the drug. According to the FDA, it is legal for scientists investigating the safety of prescription drugs to exclude up to 30% (20%) of their results. The scientist excluded 25% of their results.

iii.   Scenario 3 (prison)

Suppose there is a director of a private prison who is trying to maximize the prison's earnings. The greatest profits can be achieved when the prison is fully booked. For the highest degree of capacity utilization, it is better to transfer prisoners from one prison to another. The prison director decides to transfer prisoners to maximize occupancy of the prison. Notably, research shows that moving prisoners away from their support system of family and friends leads to a significant (slight) increase in their rates of recidivism. According to federal law, it is legal for private prisons to transfer inmates up to 200 miles (100 miles). The director decides to send some to prisons up to 150 miles away.

4. *Analyses and Results*

As in Experiment 1A, we conducted a multivariate analysis of variance (MANOVA), with legality (legal, illegal) and impact (small, large) as factors, and moral judgment, legality judgment, and impact judgment as dependent measures. The results show that the legal status of the action affected moral judgments such that legal actions were perceived as more morally permissible than illegal actions (*Ms* = 3.48 and 1.76, respectively); $F (1, 126) = 50.91$, $p < .001$, $\eta^2 = .29$. In contrast, the severity of the consequences of the action did not affect moral judgment (*Ms* = 2.53 and 2.71, respectively); $F (1, 126) = 0.60$, $p = .44$. There was no interaction between legality and consequences $F (1, 126) = 0.38$, $p = .54$. Legality affected perceived legality, such that legal actions were perceived as more legal than illegal actions (*Ms* = 3.19 and 6.22, respectively); $F (1, 126) = 93.2$, $p < .0001$, $\eta^2 = .42$. No other effect was significant.

As in Experiment 1A, in order to further explore the results, we investigated whether political orientation affects the relative weight people give to legality versus morality. Among our 130 subjects, 58 mentioned that in the 2016 presidential elections they voted for Hillary Clinton, and 29 voted for Donald Trump (the rest either did not disclose or gave other names). As in Experiment 1A, we analyzed only subjects who endorsed Clinton or Trump. The results show that legal actions were judged as more morally acceptable than illegal actions (*Ms* = 4.02 and 1.79, respectively); $F (1, 79) = 57.14$, $p < .0001$, $\eta^2 = .42$. Subjects who endorsed Clinton judged the behavior as less morally acceptable than subjects who endorsed Trump (*Ms* = 2.54 and 3.28, respectively); $F (1, 79) = 6.36$, $p < .014$, $\eta^2 = .075$. We also found a significant interaction between voting and outcomes. For Clinton voters, when the outcome was small, the behavior was judged as more morally acceptable than when the outcome was large (*Ms* = 3.09 and 1.98, respectively, $p < .001$). For Trump voters, there was no significant difference between small and large outcomes (*Ms* = 1.18 and 3.38, respectively, $p < .68$). The rest of the effects were not significant.

C. *Experiment 2*

In Experiment 2 we used the same basic design of Experiment 1, and manipulated legality (legal, illegal) and impact (big, small). The main difference was that in Experiment 2 we described impacts as distinct outcomes (e.g., diabetes versus skin rash).

1. *Participants and Design*

Participants were 132 MTurkers (85 females; Mage = 36.75, SD = 12.10) who were paid for participation. The participants were randomly assigned to one of the four conditions of a 2 (Legality: Legal vs. Illegal) x 2 (Impact: Small vs. Big) between-subjects design.

2. *Procedure*

The method of Experiment 2 was identical to that of 1B, except that impact was described as distinct outcomes. In the following scenarios legal actions appear in the text; illegal actions appear in parentheses. Big impact appears in the text; small impact appears in parentheses.

i. Scenario 1 (CEO)

Suppose there is a CEO of a large food chain who must decide whether to offer products containing ABA, a chemical compound that is often used in plastic containers and canned food. This chemical is cost-effective; using it minimizes costs and maximizes profit margins. The CEO decides to offer the products that contain ABA. Notably, ABA consumption is correlated with an increased health risk of diabetes (skin rashes). According to the FDA, it is legal to sell food containing up to 2 mg (1.5 mg) of ABA. The products the CEO decides to offer contain up to 1.75 mg of ABA.

ii. Scenario 2 (scientist)

Suppose a scientist who works for a pharmaceutical company runs several studies to investigate the safety and efficacy of a new medicine. The scientist obtains mixed results. Some show that the drug is safe and effective. Others show no effect of the drug. Some further studies also reveal a correlation between using this drug and experiencing side effects such as irregular heart rhythms (headaches). The scientist decides to re-run the studies that had the best results. These results confirm the positive findings from before. The scientist only publishes the positive results in the medical literature. The FDA approves the drug. According to the FDA, it is legal for scientists investigating the safety of prescription drugs to exclude up to 30% (20%) of their results. The scientist excluded 25% of their results.

iii.   Scenario 3 (prison)

Suppose there is a director of a private prison who is trying to maximize the prison's earnings. The greatest profits can be achieved when the prison is fully booked. For the highest degree of capacity utilization, it is better to transfer prisoners from one prison to another. The prison director decides to transfer prisoners to maximize occupancy of the prison. Notably, research shows that moving prisoners away from their support system of family and friends leads to an increase in the rate of prisoners returning to committing felonies such as burglaries (misdemeanors such as shoplifting). According to federal law, it is legal for private prisons to transfer inmates up to 200 miles (100 miles). The director decides to send some to prisons up to 150 miles away.

3. *Analyses and Results*

As in Experiment 1, we conducted a multivariate analysis of variance (MANOVA), with legality (legal, illegal) and impact (small, large) as factors, and moral judgment, legality judgment, and impact judgment as dependent measures. The results show that subjects used only legality to determine the moral permissibility of the actions, such that they judged legal actions to be more morally permissible than illegal actions (Ms = 3.1 and 1.69, respectively); F (1, 128) = 44.04, p < .001, η^2 = .26. There was no effect of consequences (Ms = 2.39 and 2.48), F (1, 128) = 0.13, p = .715, and impact did not interact with legality, F (1, 128) = 0.07, p = .932. Legality affected the perceived legality of the action, such that legal actions were perceived as more legal than illegal actions (Ms = 3.08 and 6.23, respectively); F (1, 128) = 98.42, p < .001, η^2 = .43. Finally, when asked about the severity of consequences, subjects estimated illegal actions to be more severe than legal actions (Ms = 5.58 and 4.82, respectively); F (1, 128) = 8.76, p = .004, η^2 = .06. Unlike the pretest, here, where subjects were given information about legality, the consequences did not affect the judged severity of 10 consequences, F (1, 128) = 0.32, p = .58, nor was there an interaction, F (1, 128) = 0.44, p = .51.

As in Experiment 1, in order to further explore the results, we investigated whether political orientation affects the relative weight people give to legality versus morality. Among our 132 subjects, 45 mentioned that in the 2016 presidential elections they voted for Hillary Clinton, and 36 voted for Donald Trump (the rest either did not disclose or gave other names). The results show that legal actions were judged as more morally acceptable than illegal actions (Ms = 3.41 and 1.89, respectively); F (1, 73) = 26.16, p < .0001, η^2 = .26. Subjects who endorsed Clinton judged the behavior as less morally acceptable than subjects who endorsed Trump (Ms = 3.01 and 2.29, respectively); F (1, 73) = 5.91, p < .018, η^2 = .075. The remaining effects were not significant.
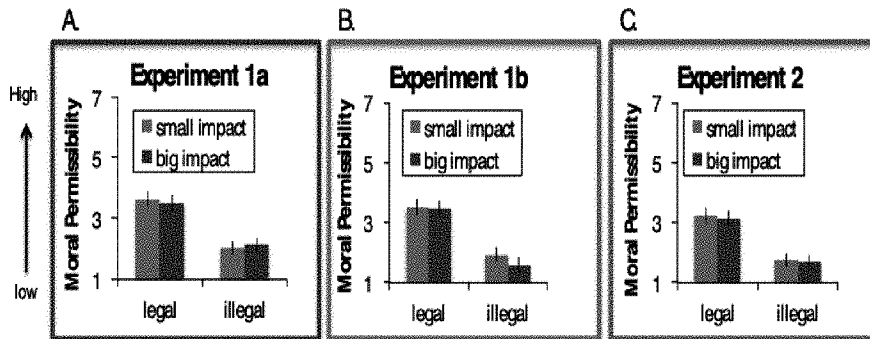
Figure 1. People rely on legality when judging moral permissibility of actions. Subjects judged the moral permissibility of actions that are either legal or illegal. In Experiment 1a (Fig 1A) and 1b (Fig 1B), the impact of the action was defined as having "slightly" or "significantly" negative consequences. In Experiment 2 (Fig 1C) the impact was manipulated as different outcomes that a pretest showed were considered severe or not (e.g., diabetes vs. skin rashes). In all experiments, subjects judged the legal actions as more morally permissible than the illegal actions, suggesting outsourcing of moral judgment to the Community of Knowledge.

II. GENERAL DISCUSSION: THE LAW AS A SHORTCUT FOR MORAL JUDGMENT

The current research shows that people judge institutional corruption as more morally acceptable than criminal actions, even when the portrayed events are identical. Moreover, our data suggest that the severity of outcomes of the portrayed action does not play a role in people's judgments. Thus, institutionally corrupt actions were judged as more acceptable than criminal actions, regardless of whether the action had severe or benign consequences. Finally, we observed that political orientation (operationalized as voting for Trump or Clinton in the 2016 presidential elections) did not affect the relative weight of legality and outcomes, nor did it diminish any of those effects.

Why is institutional corruption judged as more morally acceptable than criminal actions? One explanation for our findings is that people use the law as a shortcut to judge whether an action is morally right or wrong. Evaluating the morality of actions is not easy. Moral judgments of real-life events involve numerous considerations, including the intentions and beliefs of actors, outcomes of actions,[34] protected values,[35] and one's emotional reactions.[36]

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[34] Amit & Greene, *supra* note 32, at 861; *see* Fiery Cushman, Victor Kumar & Peter Railton,

Research from cognitive science and psychology suggest that, when faced with complex assessment tasks, people use simplifying strategies to make decisions.[37] It is therefore possible that when it comes to moral judgments, one simplifying strategy that people adopt is to not consider the moral dilemma at all. Instead, they outsource the question to the law.[38] According to this logic, the law does not simply reflect people's sense of corruption, but actually determines it. This means that framing actions in terms of their legality is more than just a signal of the actions' morality; the framing shapes their morality.

An appeal to the law is an appeal to the moral reasoning of a community of thought leaders (such as legislators and policy makers) who have determined the legality of a class of actions that includes the one under consideration. Outsourcing cognitive tasks to the community is necessary when problems are too complex for individual reasoning alone. The many factors that are taken into account when judging moral dilemmas, including inferences about intentions, outcomes,[39] the need to

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Moral Learning: Psychological and Philosophical Perspectives, 167 COGNITION 1, 3 (2017) (discussing the role empathy plays in moral responses to outcomes of actions); Liane Young & Rebecca Saxe, *The Neural Basis of Belief Encoding and Integration in Moral Judgment*, 40 NEUROIMAGE 1912, 1913 (2008) (discussing how children base their moral judgments primarily on an action's consequence).

[35] *See* Jonathan Baron & Mark Spranca, *Protected Values*, 70 ORGANIZATIONAL BEHAV. & HUM. DECISION PROCESSES 1, 1 (1997) (defining protected values as those that resist trade-offs with other values, particularly economic values); Philip E. Tetlock, *Thinking the Unthinkable: Sacred Values and Taboo Cognitions*, 7 TRENDS COGNITIVE SCI. 320, 320–21 (2003) (discussing how moral outrage may be triggered by discovering that community members have compromised sacred values).

[36] *See* Joshua D. Greene et al., *An fMRI Investigation of Emotional Engagement in Moral Judgment*, 293 SCIENCE 2105, 2106 (2001) ("Some moral dilemmas . . . engage emotional processing to a greater extent than others . . . and these differences in emotional engagement affect people's judgments."); Jonathan Haidt, *The Emotional Dog and Its Rational Tail: A Social Intuitionist Approach to Moral Judgment*, 108 PSYCHOL. REV. 814, 814 (2001) (discussing how, under a social intuitionist model, "moral intuitions (including moral emotions) come first and directly cause moral judgments").

[37] *See* Daniel Kahneman & Shane Frederick, *Representativeness Revisited: Attribute Substitution in Intuitive Judgment*, *in* HEURISTICS AND BIASES: THE PSYCHOLOGY OF INTUITIVE JUDGMENT 49, 81 (Thomas Gilovich et al. eds., 2002) ("The substitution of one question for another, the representation of categories by prototypes, the view of erroneous intuitions are easy to override but almost impossible to eradicate . . . . We show here that the same ideas apply to a diverse class of difficult judgments . . . ."); JOHN W. PAYNE ET AL., THE ADAPTIVE DECISION MAKER 2 (1993) ("When faced with more complex choice problems involving many alternatives, people often adopt simplifying (heuristic) strategies that are much more selective in the use of information."); Amos Tversky & Daniel Kahneman, *Availability: A Heuristic for Judging Frequency and Probability*, 5 COGNITIVE PSYCHOL. 207, 207 (1973) ("We propose that when faced with the difficult task of judging probability or frequency, people employ a limited number of heuristics which reduce these judgments to simpler ones.").

[38] *See* MASS. INST. TECH., HANDBOOK OF COLLECTIVE INTELLIGENCE (Thomas W. Malone & Michael S. Bernstein eds., 2015).

[39] *See* Cushman et al., *supra* note 34, at 3 (discussing the ways in which learning the outcomes of their actions affects children's future decisions); Young & Saxe, *supra* note 34, at 1913 ("Even though they can represent beliefs, these children continue to base their moral judgments primarily on the action's consequences. . . .").

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protect sacred values,[40] and the need to integrate emotional reactions to events,[41] make them complex enough to be strong candidates for outsourcing. For example, an assessment of big pharma's culpability for aggressively selling opioids requires an analysis of the various companies' prior knowledge and goals when selling opioids, the extent of their responsibility for the multiple traumatic consequences of the opioid crisis, as well as the amount of suffering that was reduced by the administration of opioids, and this must be weighed against each of one's basic moral values while controlling one's sense of outrage.

There are alternative explanations for our results. One is that people hold the law in such high esteem that breaking the law is itself morally wrong and hence illegal actions are by definition immoral. To the extent the law is a set of rules that serves to protect people and their rights, it should play a substantial role in maintaining an ordered society, and an act that breaks the law should be viewed as inherently immoral. This may be, but it does not explain why consequences had no influence on judgment. Presumably consequences should be an additional contributor to our assessments of an act's morality. Another alternative explanation is that legality is easier to evaluate than consequences[42] because it is binary (legal versus illegal) whereas consequences are complex. This is possible although the consequences in our scenarios were not really complex and the differences between the bad and very bad consequences were actually quite stark. It is also possible that legality is more salient than consequences. This seems unlikely and does not explain why consequences had no effect whatsoever. If it is a matter of salience, one would expect a less salient dimension to have a smaller effect, but not no effect.

III. IMPLICATIONS

Overall, these data show that people judge institutional corruption as more morally acceptable than criminal actions. Two otherwise identical actions were given different moral appraisals by virtue of their legal status. Actions that carry severely negative consequences may pass in the public

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[40] *See* Baron & Spranca, *supra* note 35, at 1 (defining protected values as those that resist trade-offs with other values, particularly economic values); Tetlock, *supra* note 35, at 320–21 (discussing how moral outrage may be triggered by discovering that community members have compromised sacred values).

[41] *See* Greene et al., *supra* note 36, at 2106 ("Some moral dilemmas . . . engage emotional processing to a greater extent than others . . . and these differences in emotional engagement affect people's judgments."); Haidt, *supra* note 36, at 814 (discussing how, under a social intuitionist model, "moral intuitions (including moral emotions) come first and directly cause moral judgments").

[42] *See* Christopher K. Hsee, *The Evaluability Hypothesis: An Explanation for Preference Reversals Between Joint and Separate Evaluations of Alternatives*, 67 ORGANIZATIONAL BEHAV. & HUM. DECISION PROCESSES 247, 249 (1996) (discussing the way in which individuals will choose one decision-making process over another because it is easier).

as morally acceptable if they are legal, while criminal actions with relatively minor consequences may be perceived as morally unacceptable.

Regardless of the explanation for the effect of legality and the neglect of consequences for judgments of morality, the results suggest that people rely on the law not only to prescribe and prohibit actions, but to actually determine their sense of what is moral. In other words, the law not only shapes how people act, but it also shapes what they believe. These findings have implications for both legislation and how we assess our society and institutions.

With regard to legislation, lawmakers can take advantage of our findings by using them as justification to use the law to nudge people in socially beneficial ways, such as discouraging people from smoking in public spaces, protecting endangered species, and pushing people to avoid sugary drinks. As makers of the law—and consequently, shapers of morality—lawmakers have the power to redefine the relationship between institutions and people who are affected both directly and indirectly by those institutions. Through legislative measures, institutional behavior can be restructured, both internally (e.g., eliminating conflicts of interest, restructuring guidelines followed by the institution) and externally (e.g., evaluating the impact on the greater good).

But the findings also suggest that we should be aware that our evaluations of existing institutional actions may be influenced in ways that we are not entirely aware of. Laws may carry information about whether actions are morally acceptable or not, but laws may reflect values that are out-of-date, they may have been inspired by technology or other facts that are no longer relevant, and they may be influenced by political and economic interests. In other words, there are a variety of reasons to be skeptical of the information carried by current law. Thus, it is important to have an independent means to judge the morality of action, not to rely only on the law as it is written. The foreseen consequences of an action seem a worthwhile basis for such judgment. Without considering such consequences, the legal status quo will sustain itself without adequate rationale. Pharmaceutical companies will continue to gouge innocent victims and politicians will continue to bend the law in favor of themselves and their supporters.

Our findings thus provide additional reason to critically evaluate both the law and the morality of our institutions. We need to evaluate the consequences of the products we purchase and the policies and politicians we support. Society cannot rely only on existing law to make moral assessments; it needs to constantly refresh its justifications for the actions it considers right and wrong.