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“Creative Non-compliance”: Complying with the “Spirit of the Law” Not the “Letter of the Law” under the Covid-19 Lockdown Restrictions

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ABSTRACT

This paper identifies a form of non-compliance with COVID-19 lockdown restrictions in the UK: “creative non-compliance”. Here, individuals justify breaking restrictions as meeting the “spirit of the law” if not the “letter of the law”. Drawing on interview and focus group data collected between April and August 2020, we outline this concept of “creative non-compliance,” detailing how: (i) our participants undertook a purposive construction of rules, (ii) balanced their behavior against these aims, and (iii) how Government messaging informed these rationalizations. We conclude by outlining the implications of our “creative non-compliance” theory both for studies of compliance and rationalizations for deviant behavior under the COVID-19 restrictions.

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Introduction

Analyzing an individual’s justifications for their deviant behavior is the focus of a burgeoning literature on “techniques of neutralization.” Kaptein and Helvoort’s recent efforts in this journal to condense this broad-ranging research agenda into a comprehensive model underscores the importance of “norm negation” (2018: 1268), where individuals justify non-compliant conduct via “refutation, and thus negation, of the espoused norm” underpinning a regulation (Harris 2020: 8). Drawing on a study of the UK public’s compliance with lockdown restrictions during the COVID-19 pandemic in 2020, we find that participants who broke the rules rationalized their conduct not by negating norms, but by endorsing them. Instead of seeking to avoid the principles behind restrictions, participants instead rationalized their conduct as falling within the law’s underpinning purpose, even if they thought their actions breached the strict meaning of the regulations themselves. Put another way, participants justified their noncompliance as within the “spirit of the law” if not the “letter of the law.”

We characterize this rationalization for rule breaking as “creative non-compliance.” This paper outlines this concept and considers the implications of our arguments for the literature on neutralization theory and for studies of compliance under the COVID-19 lockdown restrictions more generally. The argument is in four sections. First, we situate our analysis within neutralization theory. This literature focuses on individuals’ justifications for norm violating behavior – it is in this tradition that our theory of “creative non-compliance” sits. In particular, neutralization theory raises important questions of causality (do rationalizations drive non-compliant behavior?) and meta-narratives (do society, Government or commercial organizations inform these rationalizations?). Second, we provide an outline of the context, method and underpinning data for this study. Third, drawing on data from interviews and online focus groups, we outline the theory of “creative non-compliance,” detailing how: (i) participants undertook a purposive construction of rules, (ii)

balanced their behavior against these aims, and (iii) how Government messaging informed these rationalizations. We conclude by outlining the implications of our “creative non-compliance” theory both for studies of compliance under COVID-19 and for the broader literature on rationalizations.

Our argument has a series of implications for the (already) voluminous literature on compliance under COVID-19. In a departure from established neutralization theory, our findings on “creative non-compliance” demonstrate that rationalizations for non-compliant conduct can be rooted in a *commitment* to maintaining the norms underpinning a regulation, rather than a rejection or supplantation of them. For studies that seek to explain compliance using quantitative measures of procedural justice and legitimacy factors, our findings reject the contention that “post-hoc” rationalizations of deviant behavior may cause measurement errors. Put another way, our data suggest that participants do not simply rationalize their conduct after the event by undermining the legitimacy of the restrictions or the law itself. Indeed, our findings on “creative non-compliance” are consistent with emerging debates on rationalizations being a possible mechanism through which procedural justice and legitimacy factors have a bearing on compliance behavior. Finally, our study suggests that – at least as far as the COVID-19 pandemic is concerned – “rule bending” is not a proxy for rule cynicism. Rather, questions over “bending” rules were met with “creative compliance” rationalizations that underscored a commitment to the aims of the underpinning restrictions.

Justifying noncompliance

Analyzing an individual’s justifications for deviant behavior has a long provenance in criminology. Much of the current academic debate has its roots in Skyes and Matza’s influential study of “techniques of neutralization” (Sykes and Matza 1957). Their theory sought to resolve an “apparently paradoxical” finding in early studies of juvenile delinquency: juveniles who are committed to the dominant social order still offend (ibid: 666). Put more broadly, drawing on Cohen’s earlier work, Skyes and Matza were concerned with “why men violate the laws in which they believe” (ibid: 666). They argued that this problem is in part resolved by examining the role “justifications for deviance” play in a juvenile’s decision to commit deviant behaviors. These justifications – which they call “techniques of neutralization” – allow an individual to “bend” the dominant normative system without “breaking it,” by providing a linguistic device to render their violation “acceptable” in the circumstances (ibid: 667–669).

They detail a set of these linguistic devices they call “techniques of neutralization” – the so-called “famous five” (Kaptein and van Helvoort 2018; Maruna and Copes 2005). These are the *denial of responsibility* (the delinquent act was outside of their control), the *denial of injury* (nobody was hurt by their deviance), the *denial of the victim* (the harm caused was not wrong in the circumstances, as the victim(s) deserved it), the *condemnation of the condemners* (those disapproving of their violation are flawed), and the *appeal to higher loyalties* (the norms of society at large are rejected for those of the social groups to which the delinquent belongs) (Sykes and Matza 1957: 667–669). Their thesis has spawned an expansive literature examining the applications of the “famous five” outside of the context of juvenile delinquency or expanding on them to identify a “full list of neutralizations” (Cardwell and Copes 2021). It is difficult to overstate the influence their theory has had on studies of delinquency. Kaptein and Helvoort’s recent review of the literature identified 1,251 different neutralizations advanced by researchers (2018: 1263). In this journal alone, studies have drawn on Sykes and Matza’s work to examine other criminal behaviors – such as corporate crime (Piquero, Tibbetts, and Blankenship 2005) online piracy (Steinmetz and Tunnell 2013), and poaching (Eliason and Doddler, (1999)) – and non-criminal behaviors – such as college hazing (Alexander and Opsal 2020), prenatal diets (Copelton 2007), and mothers who send their children to beauty pageants (Heltsley and Calhoun 2003).

Our focus is on the narrower sub-set of studies that use neutralization theory to help understand compliance with law. Here, there are two ongoing areas of dispute that are relevant to the arguments that follow. The first is a causality question: do rationalizations precede and therefore perpetuate noncompliance? The second is the role of “meta-narratives”: how does Government or society-at-large influence rationalizations for deviance? Each will be dealt with in turn.

Causality

An important part of Sykes and Matza’s argument is that rationalizations take place *prior* to deviant behavior, rather than solely post-hoc, and play a role in its occurrence – a claim that Cardwell and Copes argue is “often ignored by researchers” (Cardwell and Copes 2021). As Sykes and Matza put it:

These justifications are commonly described as rationalizations. They are viewed as following deviant behavior and as protecting the individual from self-blame and the blame of others after the act. But there is also reason to believe that they precede deviant behavior and make deviant behavior possible . . . we would argue that techniques of neutralization are critical in lessening the effectiveness of social controls and that they lie behind a large share of delinquent behaviour. (Sykes and Matza 1957: 668-669).

Skyles and Matza, as with the literature on neutralization theory more broadly, do not argue that these techniques are entirely determinative of deviance. Instead, they suggest that rationalizations prior to deviance can overcome the deterrence effects ordinarily associated with guilt, blame and the threat to one’s existing values of the deviant act (Cardwell and Copes 2021). Recent studies provide some evidence for these causal claims. Longitudinal statistical analysis by Morris and Copes (2012), and Topalli, Higgins, and Copes (2013), both provide evidence consistent with a causal relationship between rationalizations and subsequent delinquency – a point supported by Helmond et al’s meta-review of neutralization studies (Helmond et al. 2015).

These causal claims are particularly significant for studies drawing on theories of procedural justice to explain compliance. In their analysis of longitudinal data from the Gang Resistance Education and Training programme in the US, McLean and Wolfe argue that rationalizations are a mediator between perceptions of procedural injustice and resulting offending behavior (McLean and Wolfe 2015). They argue that those with a greater sense of procedural injustice may be more likely to engage in particular techniques of neutralization to legitimize their behavior, in turn driving noncompliance. As McLean and Wolfe argue, “the effect of procedural injustice on offending is partially mediated by individuals’ neutralization attitudes” (McLean and Wolfe 2015: 27). Their work has informed a series of other quantitative studies that have drawn an association between endorsements of particular rationalizations and resulting offending behavior (Wojciechowski 2020).

This question is important not only for understanding the role of rationalizations in mediating future behavior, but also for understanding the causal relationship between procedural justice factors and compliance. In their broader critique of the “reverse causality” problem, Nagin and Telep suggest for studies drawing on procedural justice and legitimacy variables to explain compliance (particularly work examining the role of interactions between police and citizens (Tyler 2017; Tyler and Huo 2002)), the measurement of procedural justice and legitimacy variables may be compromised by a participant’s “post hoc rationalization” of law-breaking conduct (Nagin and Telep 2020: 772). A respondent may state that legal authorities are illegitimate or treat citizens unfairly in an effort to legitimize their noncompliance after the fact. Nagin and Telep’s argument is that associations between legitimacy and offending “might reflect the post hoc rationalization that legal noncompliance is justified because the legal authorities are not legitimate and do not treat citizens fairly” (ibid).

Similar problems have been raised in studies of compliance during COVID-19 more generally. For instance, Burruss et al argue that techniques of neutralization may explain unexpected findings in statistical models predicting compliance with COVID-19 restrictions. Surprisingly, their participants who thought they were most likely to die from COVID-19 if they contracted it, were also most likely to defy the rules. This could reflect what Burruss et al argue is a form of “fatalism” rationalization: “why

bother with mitigation strategies if infection is inevitable” (Burrus et al, 2021: 17–18)? Our findings contribute to these ongoing debates, especially in the context of COVID-19 restrictions. We will return to these implications in the discussion that follows.

The role of meta-narratives

Another comparatively neglected part of Sykes and Matza’s argument was that delinquent behavior cannot be ascribed simply to the “values and norms of a deviant sub-culture” (Sykes and Matza 1957: 666). Instead, techniques of neutralization are themselves “extensions of patterns of thought prevalent in society rather than something created *de novo*” (ibid: 669). This argument was subsequently taken further in their writing on “subterranean values” (Matza and Sykes 1961) and individually by Matza, who argued that, through mechanisms like criminal defenses, the “law contains the seeds of its own neutralization” (Matza 1964: 61). Maruna and Copes argue that the implications this core part of Sykes and Matza’s thesis have been “underappreciated and under explored” in criminology (Maruna and Copes 2018). They suggest that future research should focus not just on fleshing out further techniques of neutralization, but also link these to the “cultural meta-narratives that sustain them” (ibid).

In the context of a study examining responses to COVID-19 restrictions, the role of these “meta-narratives” is particularly acute. Drawing on Sykes and Matza, Sandberg and Fondevila have argued that Government and media communications on the pandemic – what they refer to as part of “pandemic master narratives” – can inform “techniques of neutralization” (Sandberg and Fondevila 2020: 11). For example, the same “apocalyptic tone” that may be necessary to secure compliance with wide-ranging restrictions, may at the same time inform the neutralizing techniques of “denial of responsibility” or “appeal to higher loyalties” (ibid).

A characteristic of the UK Government’s regulatory response to the pandemic has been a “potent fusion” of intricate, wide-ranging regulatory restrictions and broader public health guidance (Hickman 2020), supplemented with “pre-tested and simple messages” to help ensure compliance (Warren, Lofsted, and Wardman 2021). In the face of this complex picture, in their communications with the public the UK Government have repeatedly underscored the necessity of “common sense” in the application of regulations and guidance. When pushed on compliance with the restrictions, the Prime Minister has referred to “good British common sense” (HC Deb, 3 June 2020, c836) and how it is “vital that everybody shows common sense and follows the guidance” (HC Deb, 12 October 2020, c45).

Survey studies of compliance with Covid-19 measures have also begun to identify the importance of “common sense” reasoning when assessing individual compliance. In their study of responses to the Covid-19 restrictions in Canada, Wang et al underscore the importance of common sense “logical reasoning” by their participants, informed by their own understanding of the restrictions, Covid-19 risks, and Government messaging (Wang et al. 2021). Indeed, Alegria et al’s study of responses to Covid-19 restrictions in the United States draws on a “Common-Sense Model of Self-Regulation” to identify how “people form dynamic characterizations of illness risk” in response to public health restrictions (Alegria et al. 2021). We will return to this “common sense” meta-narrative in our analysis below.

Complicating compliance: “Creative compliance”

Having considered debates in neutralization theory, this section turns to the well-established literature on “creative compliance.” The argument – put by McBarnet and adopted by many others – is the opposite of our theory of “creative non-compliance.” Here, corporate actors rationalize their conduct as complying with the “letter of the law” while avoiding the “spirit of the law” (McBarnet 1985, 2006, 2012). By adopting “excessive” legal formalism, the creative complier seeks to sever rules and regulations from their aims and development (Gribnau 2015: 235), avoiding their purpose while continuing to fall on the “right side of the boundary between lawfulness and illegality” (McBarnet

2006: 1091). This “rationalization” is so established as to be a “market and industry norm” in many sectors (Donovan 2021) and the “dominant culture of compliance in business,” particularly in corporate law and finance (McBarnet 2012: 71).

This is an approach characterized by the “practice of using the letter of the law to defeat its spirit” (McBarnet 2006: 1091). In her empirical work in the financial services sector, McBarnet highlights how “legal engineering” by lawyers can circumvent adhering to the principles behind regulation, whilst ensuring that the business stays on the “right side of the boundary between lawfulness and illegality” (McBarnet 2012). As she summarizes it, “creative compliance” is:

... taking advantage of one device or another to avoid the law in a way which may break the spirit but does not break the letter of the law, and thus leaves the avoider immune from either the necessity of compliance with the law or the risk of punishment (McBarnet 1985: 115).

This literature is relevant for our purposes for two reasons. First, McBarnet’s work demonstrates the importance of complicating the notion of “compliance” The literature on creative compliance is rooted in the idea that there are “a whole range of ways of complying” and that “approaches to compliance” should be interrogated (McBarnet 2012: 71; McBarnet, (2019):6). McBarnet characterizes this as her effort to “reverse the focus” on legitimacy that dominates objectivist studies of compliance (McBarnet 2012: 71). Instead of asking how an individual’s perception of legitimacy (of, for instance, the law) influences their behavior, we can instead ask whether their approach to compliance is legitimate. In “creative compliance” research, the participants avoid legal control in one sense (by avoiding the law’s “spirit”), while remaining subordinate to it in another (by adhering to its “letter”). Our theory of “creative non-compliance” builds on this insight for non-compliant behavior. Our participants instead avoid legal control by neglecting the “letter” of the law, while still remaining subordinate to its “spirit.”

Second, although rarely drawing explicitly on neutralization theory, these studies treat creative compliance as a rationalization in much the same way. McBarnet’s participants know they are not following the “intentions or spirit” of the law; in her research banking lawyers and their clients talk of “sailing close to the wind” or “bullish” legal practices (ibid: 86). Creative compliance is the rationalization for this way of “complying” with the law and captures how workplaces and institutional environments can encourage and inform these rationalizations (ibid: 71). McBarnet’s theory has spurred a considerable literature examining associated “rationalization” processes. Donovan’s recent work focuses on how corporate actors “rationalise” creative compliance as a “legitimate course of conduct” (Donovan 2021). Her work echoes Sykes and Matza’s findings on how individuals use rationalizations to resolve value conflicts that arise from deviant behavior, arguing that corporate actors:

... engage in (surprisingly predictable) compensatory efforts designed to legitimise the conduct in question and thereby minimise or remove the conflict. It is these compensatory efforts that serve to legitimise (and ultimately entrench and habitualise) the behaviours that would cause conflict, in this case, the adoption of creative compliance strategies (Donovan 2021).

Similar arguments are put forward by Hall and Holmes (2015). They argue that “rationalizations” by in-house lawyers in corporate environments contribute to their willingness to adopt a “creative compliance” approach, working “routinely near the edge between legality and illegality” (Hall and Holmes 2015: 144). Put simply, corporate actors “see themselves as justified in bending the rules or adopting unorthodox methods to get the job done” (Hall and Holmes 2015: 152). These creative compliance rationalizations may lead corporate actors to state that their approach aligns with market ideology, there is an obligation to shareholders to act in this way, or that it is something all corporations engage in (Donovan 2021).

Importantly, these studies draw on similar causality and “meta-narrative” arguments as the broader literature on neutralizations. The argument goes that the corporate arena itself, and the environment within specific organizations, can inform and perpetuate rationalizations for “creative compliance.” As

Hugh argues, organizations provide the “space for employees to formulate the rationalizations necessary for their bad conduct” (Hugh 2017: 1261). Organizations may “tacitly support the legitimacy of creative compliance as a market and industry norm” and, over time, creative compliance becomes an “accepted baseline or, in some cases, even an expectation” (Donovan 2021). This in turn feeds a “degenerative cycle” of creative compliance rationalizations and behavior at odds with the “spirit” of the law (ibid). The literature on “creative compliance” is therefore both the other side of the coin of our arguments on “creative non-compliance,” and an illustration of the value of complicating the notion of “compliance.”

As the opposite of “creative compliance,” “creative non-compliance” would therefore focus on the intention behind the introduction of the restrictions – the “spirit” or “purpose” of the law. We would expect to see two aspects to this in the data. First, a recognition by participants that the “spirit” of the restrictions is something distinct from, if related to, the “letter.” This claim is well-supported in studies of “creative compliance.” As Braithwaite summarizes it, the theory is based on data suggesting corporate actors distinguish between different “options”: complying with the intention of the law, complying with the letter, or a somewhere between the two (Braithwaite 2002: 177). Research on COVID-19 has begun to make similar arguments. In their qualitative analysis of responses to COVID-19 restrictions in New Zealand, Trnka et al find that their participants distinguished between “perceived ‘spirit’ of lockdown” and the “letter of the law” when talking about their behavior – a process they refer to as “ethical reasoning” (Susanna Trnka et al. 2021).

Second, we would expect participants to have a resulting focus on a purposive construction of the restrictions. This is the opposite of the “creative compliance” approach, which is instead characterised by a mechanistic, detail-orientated focus on legal form (McBarnet and Whelan 1991: 849). Creative compliers are, to borrow Braithwaite’s characterization, “literalists,” which can be contrasted with a “purposive view” which focuses on the intention behind the regulations (Braithwaite 2002: 177–178). Indeed, much current writing on creative compliance focuses on how to shift the literalists to a purposive position, leading McBarnet to make a “a call for compliance with the spirit of the law” (McBarnet 2012: 88). We will return to whether these two aspects arise in our data in the analysis that follows.

Context and method

The analysis below draws on data from a larger study of the UK public’s compliance with the COVID-19 lockdown restrictions in 2020 (Halliday, Meers, and Tomlinson, (2021)). There are two inter-linking empirical strands to the project: one based on three representative surveys of the UK public, and another on focus groups and interviews conducted between 27th April and 10th August 2020.¹ The analysis that follows draws on the latter.

Before turning to the data collection in more detail, it is important to first contextualize what follows in light of the UK Government’s regulatory response to the COVID-19 crisis. In common with other countries facing increasing public health pressures as a result of the pandemic, the UK Parliament introduced a series of wide-ranging behavioral restrictions across the country on 26th March 2020. The restrictions were a “potent fusion” of legally enforceable criminal offenses – laid out largely in secondary legislation – and broader public health guidance (Hickman 2020). Although all four Governments within the UK diverged somewhat in their approaches and the guidance issued, broadly speaking, the regulations at the time of this study prohibited:

- Individuals leaving their home without a “reasonable excuse”, such as attaining basic necessities or to take exercise.
- Public gatherings of more than two people who are not members of the same household, except where these are essential for work purposes or for other limited exemptions.

¹More information about the findings from these other components of the project are available at: www.lawandcompliance.uk

Breaching these restrictions was a criminal offense (for the root legislation across the four nations of the UK, see The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020/350, The Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020/353, The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020/103, and The Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2022, respectively). However, a far broad-ranging set of restrictions were laid out in accompanying Government guidance, including keeping a 2-meter distance from others outside of your household, not going shopping more than once a day or to buy solely non-essential items, or going for recreational drives (for a more detailed overview, see Hickman, Dixon, and Jones 2020). Within the course of the data collection, rules were relaxed to allow for the phased re-opening of schools, non-essential shops and seated forms of hospitality (such as restaurants and public houses), alongside the introduction of a “bubble” policy, where two households could meet in limited circumstances (Gulland 2020).

Government communications did not distinguish routinely between restrictions underpinned by a criminal sanction and those detailed in non-legally enforceable public health guidance (Hickman 2020). Within this study, we adopted a subjective approach to compliant behavior – what mattered is whether our participants thought they had breached the lockdown restrictions, whatever the rule’s status in law. The analysis that follows draws on those participants who admitted they had broken the rules. This was ordinarily disclosed in answer to one of two questions: one asking about how much they had “been sticking to the restrictions” and another on if there was any “difference between rule breaking and rule bending.” In all cases (sometimes after follow-up questions) participants acknowledged that a rule had been broken, even if its breach was justified.

In common with Harris’ study, a large proportion of participants disclosed subjective rule-breaking (Harris 2020). In Harris’ sample, 48 out of 54 interview participants admitted breaking the lockdown rules – our study is broadly in line, with 38 of 47 interview participants doing so. However, our sample, as with Harris’, is not designed to be representative (on which more below). We therefore cannot draw conclusions about the prevalence of noncompliance among the general population (our findings from the quantitative strand of this project explore this in more detail (Halliday, Meers, and Tomlinson, 2021). Likewise, within the interview sample, 9 participants did not disclose any noncompliance with the restrictions – these participants therefore did not have any non-compliant conduct to justify and did not adopt the “creative non-compliance” rationalization. Figure 1 details the approach to sampling and recruitment of the qualitative component.

Participants were recruited from a two-day Facebook advertising campaign on the 14th to the 15th March 2020. Prospective participants were asked to provide socio-demographic information (such as their age, ethnicity, caring obligations, disability and so on), location (via their outward postcode) and other factors which were liable to impact on their experience of restrictions (such as the size of their property, extent of over-crowding, and key-worker status). From 794 expressions of interest, we constructed a purposive sample of 100 participants which: (i) had socio-demographic diversity, and (ii) a wide range of living arrangements and other factors which may impact on their experience of lockdown restrictions. Following this initial wave, we invited an additional 34 participants to the platform – constructed using the same purposive criteria – to account for non-responses in the original sample. This led to an overall active sample of 102 participants, of whom 77 posted across all five waves on the focus group platform

Table 1 details demographic data for the focus and interview samples. Our aim was to secure a range of demographic characteristics in the sample, rather than a stricter quota-sampling approach. Conversation rates were higher for females than males, so there is a modest skew in the data toward more female participants than male participants.

In addition to the demographic characteristics of the sample, Table 2 details other factors that we considered could have a bearing on COVID-19 compliance. This includes so-called “keyworker” status (namely, those permitted to travel to work during the initial lockdown restrictions), health workers, or those in high risk categories.

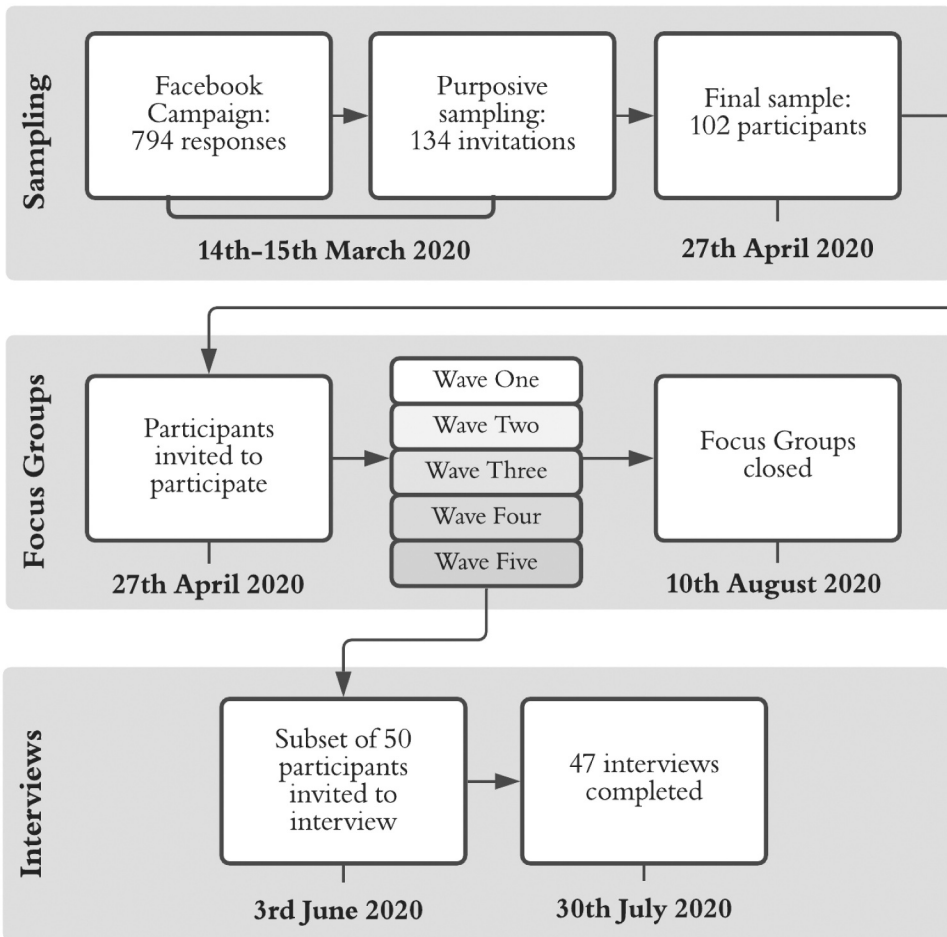


Figure 1. An illustration of the sampling, focus group and interview components of the qualitative research package.

All participants were invited to participate in five waves of online asynchronous focus groups, running between 27th April 2020 and the 10th August 2020, hosted on Collabito. Participants were divided into groups of 10–11, designed to reflect a range across the purposive sampling criteria. Each wave comprised of three topics, to which participants could post responses onto a discussion board at their convenience. These topics covered a wide-range of issues that were of theoretical interest for our wider project on compliance. For the purposes of this study, two focus group topics are of particular significance: one on the topic of “rule bending” and another on a high-profile alleged breach of lockdown restrictions by a senior UK Government advisor (the so-called “Cummins events” (see Fancourt, Steptoe, and Wright 2020: 464)).

A sub-set of 50 participants were invited to participate in individual semi-structured interviews, lasting one hour and focusing on their experiences and compliance behavior during the lockdown restrictions. This sub-set was based both on purposive sampling across the criteria above, and on attaining a diversity of opinions across posts already made on the platform. A final sample of 47 interviews took place from the 3rd June 2020 until the 30th July 2020.

Table 1. Demographic descriptives for the focus group and interview samples.

	Focus Groups number (% of sample)	Interviews number (% of sample)		Focus Groups number (% of sample)	Interviews number (% of sample)
Gender			Ethnicity		
Male	35 (45%)	22 (47%)	White British	49 (64%)	32 (68%)
Female	42 (55%)	25 (53%)	White Irish	2 (3%)	2 (4%)
			Other White	4 (5%)	1 (2%)
Age			Indian	4 (5%)	4 (9%)
Age 18 to 25	24 (31%)	12 (26%)	White and Black African	2 (3%)	1 (2%)
Age 26 to 35	7 (9%)	6 (13%)	White and Asian	2 (3%)	2 (4%)
Age 36 to 45	15 (19%)	7 (15%)	Other Mixed	2 (3%)	0 (0%)
Age 46 to 55	12 (16%)	9 (19%)	White and Black Caribbean	1 (1%)	0 (0%)
Age 56 to 65	12 (16%)	8 (17%)	Pakistani	3 (4%)	2 (4%)
Age 66 to 75	5 (6%)	3 (6%)	Bangladeshi	0 (0%)	0 (0%)
Age 75 and above	2 (3%)	2 (4%)	Other Asian	2 (3%)	0 (0%)
Disability			Black Caribbean	1 (1%)	1 (2%)
My day-to-day activities are limited a lot	6 (8%)	5 (11%)	Black African	1 (1%)	0 (0%)
No. My day-to-day activities not limited	57 (74%)	35 (74%)	Chinese	4 (5%)	2 (4%)
My day-to-day activities limited a little	14 (18%)	7 (15%)			
Employment status			Relationship status		
Self-Employed	5 (6%)	2 (4%)	Single	18 (24%)	10 (22%)
Working: 30 hours a week or more	19 (25%)	14 (30%)	In a relationship, but not married or in a civil partnership	23 (30%)	12 (26%)
Working: less than 30 hours a week	7 (9%)	5 (11%)	Married	26 (34%)	19 (41%)
Furloughed or temporarily redundant	7 (9%)	5 (11%)	Separated, but still legally married	1 (1%)	0 (0%)
Not working because of long term sickness or disability	1 (1%)	0 (0%)	Divorced	6 (8%)	4 (9%)
Not registered unemployed but seeking work	1 (1%)	1 (2%)	Widowed	2 (3%)	1 (2%)
Registered unemployed	3 (4%)	1 (2%)	In a registered same-sex civil partnership	0 (0%)	0 (0%)
Not seeking work	3 (4%)	1 (2%)	Prefer not to say	0 (0%)	0 (0%)
Retired (including retired early)	10 (13%)	8 (17%)			
Full-time student	19 (25%)	8 (17%)			
None of the above	2 (3%)	2 (4%)			

The analysis that follows draws on both interview and focus group data. These data were coded separately in NVivo, adopting a grounded theory approach (see Thornberg and Charmaz 2014) rooted in an initial coding framework developed to assess drivers for compliance, informed by the procedural justice literature. A key theme that emerged when coding these data were neutralizations for noncompliance. These neutralizations were then coded separately to inform the analysis in this paper. The focus groups and interviews were wide-ranging, covering aspects of the participants' understanding of the COVID-19 lockdown restrictions, responses to specific legal and policy interventions (such as contact tracing processes), thoughts on the compliance (or noncompliance) of others in their locality, and the impact of the lockdown of themselves and their families. The data follows draws chiefly on two sets of questions. For the focus groups, participants were asked about what factors motivated their response to the COVID-19 lockdown restrictions: "Reflecting back over the course of the lockdown, what factors do you think have influenced your response to the restrictions? When you've been thinking about what to do, what have been the main things running through your mind?"

Table 2. Other descriptives for the focus group and interview samples

	Focus Groups	Interviews		Focus Groups	Interviews
Property ownership status			Outside space at their property		
Owns outright	27 (35%)	17 (36%)	A private garden	58 (75%)	34 (72%)
Owns with a mortgage or loan	27 (35%)	18 (38%)	A balcony or terrace	1 (1%)	1 (2%)
Part owns and part rents (shared ownership)	1 (1%)	1 (2%)	A courtyard or other private outside space	7 (9%)	4 (9%)
Rents (with or without housing benefit)	22 (29%)	11 (23%)	No outdoor space	11 (14%)	8 (17%)
Lives here rent free	0 (0%)	0 (0%)			
Experiences of the COVID-19 pandemic					
I have experienced symptoms of Covid-19				6 (8%)	1 (2%)
I – and/or a member of household – am in a “at risk” group and received Government advice to self-isolate for 12 weeks				9 (12%)	7 (15%)
I – and/or a member of my household – works in the NHS or in health and social care				5 (6%)	3 (6%)
I – and/or a member of my household – is a key worker outside of the health and social care sector (e.g. those working in utilities, food chains or public services) and am still going to work				14 (18%)	9 (19%)
I – and/or a member of my household – have been furloughed by my employer as a result of the pandemic				9 (12%)	4 (9%)
I – and/or a member of my household – have been made redundant or otherwise lost paid work as a result of the pandemic				3 (4%)	2 (4%)

Within the semi-structured interviews, after being asked about their understanding of restrictions over the initial months of the pandemic, participants were asked questions about their compliance over the course of the pandemic, such as: “Could you talk me through how much you’ve been sticking to these rules over this time?” As-and-when participants disclosed non-compliance, the interviewer asked follow-up questions to probe on the participant’s justification for doing so.

The analysis that follows draws on both the focus group and interview data, with quotes marked accordingly. Although these data differed in some respects – particularly with regard to the extent to which participants disclosed the impact of lockdown on their families and aspects of their personal circumstances – there were no differences in the sentiments expressed when justifying non-compliant behavior. As detailed above, the two strands are linked: we interviewed participants from the focus group pool. As a result, the analysis draws on more quotes from interviews than focus groups, as the former were often used as opportunities for participants to explain in further depth issues they had raised in the latter.

Creative noncompliance

Having situated this study in the literatures on rationalizations and “creative compliance,” this section outlines our concept of “creative non-compliance.” Here, participants rationalize their behavior as falling within the “spirit of the law” if not the “letter of the law.” We argue that this approach is defined by a purposive construction of restrictions, coupled with weighing the consequences of one’s behavior against those underpinning aims. We draw on data to illustrate both of these before turning to the role of Government messaging on “common sense.”

The purposive construction of rules

Participants emphasizing the intention behind restrictions and, as a result, undertaking a purposive construction of the lockdown rules, is reflected in our data. Participants drew distinctions between complying with the intention behind the law as opposed to its legal form, or vice versa, sometimes using the language of the “spirit” versus the “letter.” Participant A draws an analogy between compliance with COVID-19 restrictions and the “spirit” or “rules” of cricket:

I think it can come down to the idea of whether you're maintaining the spirit of the rules. It's a little bit like being a cricket fan where there are the rules of cricket and there's the spirit of cricket, which is not always exactly the same thing. I think that's why, for some people, when they've not exactly followed the rules, they've done it because they thought it was for the best on a large scale. I mean, there are probably lots of examples of people doing nice things, like buying shopping for Mrs Smith next door and then taking it into the kitchen for her.

Participant A, Male, 40 years old, Interview.

The same sentiment was expressed by a majority of participants, but often using different language, such as the “detail” of the law or the “technicalities.” For instance, Participant B argues that “ourselves and our neighbours broke the rules in the detail of the law but maybe not in the spirit of the law” (*Male, 61 years old*), or Participant C’s lack of concern with “a technicality” which is “for a lawyer to argue, isn’t it?” (*Female, 43 years old*).

Such a distinction also arose when participants mentioned a high-profile UK case of a Prime Ministerial advisor’s alleged noncompliance with Covid-19 restrictions. Described elsewhere as the “Cummings events” (Fancourt, Steptoe, and Wright 2020: 464) or “Cummings-Gate” (Warren, Lofstedt, and Wardman, 2021: 268–269), in late May 2020 it was widely reported that the senior aide had broken lockdown rules by traveling over 200 miles to a family property with his wife and child (Fancourt, Steptoe, and Wright 2020: 464). His conduct was defended by himself and the Government as being “both within the letter and the spirit of the law” (Shaw 2021: 259–260). These events were the focus of a wave of Focus Group responses. A great deal of anger was expressed by participants in response; some of which focused on the use of the “letter” of the restrictions to defeat the “spirit of the law.” As two participants put it:

Yeah. It was just annoying that, you know, he was somebody who was basically leading the show from behind the scenes and he, well, maybe it was after the fact, but he looked at the rules very carefully and still saw where he could bend them . . . but he was within the letter of the law but not the spirit of it.

Participant D, Female, 47 years old, Interview.

They probably did have parents they could take their bairn [child] to, but they didn’t think they were allowed and that, for me – you know, if he’d said, ‘All right, I acted in the heat of the moment. I accept really that I probably did break the spirit, even if not the letter, and I’ll go,’ or even if he’d said, ‘but I’m not going.

Participant E, Male, 55 years old, Interview.

Similar sentiments were expressed elsewhere in the sample, lamenting the “convoluted justification” (*Male, 46 years old*) given in his public statement – “which was quite obviously a witness statement written with a lawyer” (*Female, 45 years old*) – or how his conduct demonstrated how one can “twist the regulations for your benefit” (*Male, 44 years old*), or make use of the “small print attached” to the regulations (*Male, 76 years old*). It is clear, both in respect of their own conduct and when criticizing the conduct of others (in this case, a senior Government aide), participants distinguished between conduct in-keeping with the “spirit” of the regulations, and that in-keeping with the “letter.”

Turning to the second element – the purposive construction of the rules – participants underscored the importance of understanding the intention behind the underpinning restrictions over a detailed account of the “letter.” As one participant put it:

. . . this maybe puts me into that category of elitist people or something, but I feel like either you have to just understand what the rules are, and follow them, or you have to understand the purpose of the rules and live within the purpose of the rules.

So, if you are able to understand why the rules are in place and how, and bit more of the detail about why certain things are important, and potentially certain things are less important, but ultimately they had to distil them for a large audience into, “here are just the rules”, then potentially some people who are breaking the rules kind of understood what was behind it and understood the signs maybe more deeply . . .

Participant F, Female, 37 years old, Interview.

In line with other research, when asked about their knowledge of the COVID-19 restrictions, participants were almost always confident that they had a good understanding of general principles, but struggled with details or keeping up-to-date as restrictions changed (Denford et al. 2021; Williams et al. 2020). Participants spoke of being “certain in broad terms, but less sure of the detail” (*Male, 46 years old, Focus Group*), that they “understand the principles of the restrictions,” or underscored the “the reasons behind them” (*Female, 62 years old, Focus Group*). When asked about restrictions, participants raised “grey areas,” such as the definition of keyworkers or exercise. However, a detailed understanding of the restrictions themselves was seen as less important than understanding the purpose behind them. This is reflected by Participant G:

With laws that were created so quickly it's not surprising that there are grey areas, we just have to think of the problem from first principles and interpret accordingly. Unfortunately we see other people doing something different and immediately think they are breaking the rules when they might be quite legitimate because of their job or health etc. Also interpretation of exercise can be very wide in terms of where you do it and with whom, are they all in the family or not.

Participant G, Male, 76 years old, Focus Group.

This approach aligns with Denford et al's participants' response to the restrictions, underscoring that restrictions and guidance were “open to interpretation” and resulted in a “need to decide for themselves how to respond to the information they were receiving” (Denford et al. 2021: 3). It is clear from our data that participants both recognize a distinction between the “letter” and the “spirit” of the restrictions and focus on the latter over the former.

The balancing of risk

Having established that participants undertake a purposive construction of the rules (distinguishing the “spirit” from the “letter”), a “creative non-compliance” approach would expect participants to balance the proportionality of their actions against their interpretation of the purpose of the restrictions. This is similar to what Trnka et al characterize as an “independent risk assessment,” where their participants took a “reasoned response to what was and was not likely to be safe in various situations” to COVID-19 restrictions in New Zealand (Susanna Trnka et al. 2021: 563). It is effectively a proportionality assessment, weighing the likely consequences of an action against the restrictions' aims. This is the opposite to “creative compliance” which, as Gribnau argues, is tied to an excessive legal formalism that separates rules and regulations from their aims and development (Gribnau 2015: 235) – the only balancing of risk that matters in “creative compliance” is ensuring that one falls “on the right side of the boundary between lawfulness and illegality” (McBarnet 2006: 1091).

In the sample, participants balancing their actions against the purpose behind the restrictions was widespread. When justifying their own partial noncompliance with COVID-19 restrictions, Participant H draws an analogy with speeding offenses that illustrates this logic well:

(Sighs) . . . it's a bit like driving on an empty motorway at eight or ninety miles an hour because there's nobody else there, compared to driving at eighty or ninety miles an hour when there's loads of traffic. You know, it's – and I think you take your own risk assessment of something and (pauses) do what you think is safe.

. . . It's like if I feel that something is safe, I personally – and I'm not causing a problem to myself or anyone else, then I'll do it. And that sort of transcends legal compliance with the letter of the law.

Participant H, Male, 61 years old, Interview.

This weighing of potential consequences against the aim of restrictions often arose when participants were asked about “rule bending” versus “rule breaking.” Where such a proportionality assessment is passed, conduct was more likely to be seen as “rule bending” – a form of justified noncompliance – and when it was not, unjustified “rule breaking.” Participant I draws on this distinction when talking about a visit to their father which they thought was prohibited by the regulations:

I would say – so for example if, because my dad lives by himself so I have been to see him, but it has been outside the whole time; and maybe I did go on a walk with him before they said you were allowed to, but it's not like I've broken the rule by staying overnight and staying for a few days, then coming home. So I bent the rules slightly by going for a walk with him, but I didn't break the rule by going for a few days, then coming home, if that makes sense.

... because if I were, if I did have coronavirus and I did go into the house and touch everything, then that would increase the risk of him getting it. Whereas if we were outside, two metres distance, then the risk is limited ...

Participant I, Female, 18 years old, Interview.

Not all restrictions were treated equally. Given that the consequences of breaking some rules were perceived as more acute than others, this factored into participants' balancing of the risk of noncompliance against the restriction's underpinning aim. Participant J spoke of a "hierarchy" of rules:

... But the thing is, I think some are more, I don't think it's as black and white, because some are more justifiable than others. Like obviously if there was a rule in relation to sticking to 2m away from another person and you went 1.5m away, so what (laughs), like you know ...

But obviously if there are rules about not using public transport because obviously key workers need to be on there and then you need to maintain their safety, then that's slightly more, there's like a hierarchy isn't there, and not all rules have the same consequences, like the same outcomes if you break them.

So I think there is a – it's difficult, because in some instances maybe bending the rule is equivalent to breaking a rule because the consequences are so dire, and then in some circumstances they're not one and the same because they're so kind of, the effects are so minimalistic, that what does it really matter?

Participant J, Female, 35 years old, Interview.

When justifying visiting a friend's household before this was permitted, Participant K spoke of abiding by the "main rules," informed by an impetration of guidance on what is safe and a sense of the proportionality of infringements:

I like to think that when I went to see my friend that I didn't break the rules because I think the main rules were two meters apart and stay at home as much as you can. I stayed two meters apart, so I stayed within the guidelines that the Government were saying were safe, whereas I think there are some people that are flat out breaking the rules ...

I live by a park and I walked past it and I saw somebody playing football, and they were all piling on each other when they scored. To me, that is flat out breaking the rules. Not only were they stood close, they were making physical contact ...

So bending, it is doing things that the Government hasn't said is hundred percent okay, but you're still in the realms of what they deem as safe.

Participant K, Female, 19 years old, Interview.

What emerges from the data therefore, is an approach by participants that prioritizes balancing the consequences of their actions against the perceived "spirit" of the law, rather than seeking loopholes or a creative interpretation of the "letter."

Law and common-sense

As noted above, the UK Government has relied on a "common sense" framing of rules and guidance. An emphasis on common sense reasoning is entirely consistent with "creative non-compliance" rationalizations. Where "common sense" or similar sentiments were mentioned by participants, it was in the context of the balancing assessment outlined above. For instance, Participant L detailed

a situation where she entered a friend's house before it was permitted. When explain her reasoning, she adopted a familiar balancing approach detailed above, noting that this was encouraged by the Government:

So, whilst we knew it was against the rules at the time, we also knew that it wasn't not sensible and safe. So it was conflicting, but we felt comfortable the whole time . . .

The Government say "use your common sense" and I used my common sense. Even if that was a silly thing for the Government to say, I still followed my common sense. But it's fair enough to be critical when other people tweak the rules.

Participant L, female, 19 years old, interview.

Adherence to "common sense" principles was sometimes drawn on by participants as part of their response to questions on "rule bending." This was echoed by Participant N, who characterized the Government's messaging as:

. . . the Government's made it so that they're almost encouraging you to bend the rules and interpret it how it best fits into your life . . . It's almost like they're encouraging you to bend the rules.

Participant M, Male, 23 years old, Focus Group.

This same sentiment is expressed by Participant N, who outlines the "common sense approach" inherent in his response to the restrictions:

I would like to think of myself as a reasonably well-adjusted individual capable of going about my day-to-day life in a normal way . . . I think a common sense approach has got to be taken. I think you can't – you shouldn't be – people shouldn't be penalized for just using basic common sense, but there's got to be lines

Participant N, Male, 46 years old, Interview.

He goes on to explain a situation where a friend at work refused to let another person travel in their car, noting that:

He said that's against the rules, and that point I thought, "Come on, use your common sense. You're not breaking any rules there." But that was a perception . . . So the whole sort of thing throws up lots of little anomalies and you've kind of got to navigate your way through them as a best you can, with the best common sense, just with the best common sense.

Participant N, Male, 46 years old, Interview.

Our findings demonstrate that the arguments on the impact of organizational factors on rationalizations of rule-breaking behavior also apply to the role of Government. Our data points to the Government's emphasis on "common sense," running parallel to the public health messaging, informing participants' rationalizations. Our findings suggest that rationalizations may be one means via which the Government's role as an "expressive agent" (Jackson and Bradford 2021) during the COVID-19 restrictions has an effect on overall compliance. Indeed, Government communications drawing on "common sense" analogies may in turn serve to drive "creative non-compliance" rationalizations for non-compliant behavior.

Implications of "creative non-compliance"

Having provided an outline of "creative non-compliance" rationalizations within our data, this section turns to the implications of our theory. Three issues will be dealt with in turn: (i) the differences between our findings on rationalizations and those of other studies drawing on data from the COVID-19 pandemic, (ii) the implications for studies of the role of procedural justice and legitimacy factors in compliance behavior, and (iii) and the treatment of "rule bending."

Justifying noncompliance with Covid-19 restrictions

Our theory of “creative non-compliance” builds on the findings of other studies of rationalizations during the COVID-19 restrictions. In earlier work in this journal drawing on 54 in-depth interviews during the pandemic in UK, Harris argues that the “neutralization technique” of “norm negation” is particularly well represented by COVID-19 non-compliers. In his sample, participants breaching restrictions negated “lockdown and stay-at-home norms . . . via the espousal of alternative, and more plateable norms” – such as the responsibility to care for one’s mother (Harris 2020). As outlined by Kaptein and Helvoort, this “norm negation” can take many forms, including “relativizing the norm violation”; put simply, where non-compliers “acknowledge that they have breached the norm, but that it is not “that bad” (Kaptein and van Helvoort 2018: 1271) This may include referring to the behavior of others (they are doing it, so why not me?), frequency (I am not breaching the norm often), seriousness (the breach could be worse), good deeds elsewhere (the breach is in balance relative to other conduct, known elsewhere in the literature as the “metaphor of the ledger”), or regret (I regret my noncompliance and will learn from it) (ibid).

However, the starting point of this literature is that non-compliers “acknowledge” the norm violation (ibid). Our data instead suggests that rationalizations can be based on a commitment to maintaining norms – the “spirit” of restrictions, if not the “letter.” Our findings are therefore a departure from established neutralization theory, demonstrating that “creative non-compliance” rationalizations for non-compliant conduct can be rooted in a *commitment* to maintaining the norms underpinning a regulation, rather than a rejection or supplantation of them. Our theory explains how non-compliers can remain committed to a norm underpinning a regulation, while not complying with the regulation itself. “Creative non-compliance” may therefore be considered an additional rationalization under the “relativising the norm” sub-set outlined by Kaptein and Helvoort (ibid), that warrants further research.

Procedural justice and “techniques of neutralization”

Techniques of neutralization play a significant role in debates on procedural justice and compliance. First, they present a reverse causality problem for quantitative studies drawing on models of procedural justice to explain compliance. The potential problem, as argued by Nagin and Telep, is that procedural justice and legitimacy variables may instead be measuring a participant’s “post hoc rationalization” of law-breaking conduct (Nagin and Telep 2020: 772). Participants may respond to survey questions to state that legal authorities are illegitimate or treat citizens unfairly in part to legitimize their law-breaking (ibid). Studies that conclude that these factors influence compliance may therefore be, at least in part, measuring rationalization.

If this claim were to hold true in our data, we would expect our rule-breaking participants to rationalize their conduct using concerns over procedural justice, legitimacy or other factors that arise in the data. At least in relation to the COVID-19 restrictions, our data do not provide support for this reverse causality concern. “Creative non-compliance” illustrates how a majority of rule-breaking participants instead rationalize their noncompliance with reference to a purposive assessment of the rules. This purposive assessment may in turn be influenced by procedural justice and legitimacy factors, but is evidence against this reverse causality “post-hoc” thesis.

Second, rationalization processes may be one mechanism for linking procedural justice factors with compliance behaviors. For instance, it may be that those with a greater sense of procedural injustice are more likely to engage in particular rationalizations to legitimize non-compliant behavior. Recent work by McLean and Wolfe drawing on longitudinal data concludes that “the effect of procedural injustice on offending is partially mediated by individuals’ neutralization attitudes” (McLean and Wolfe 2015: 27) This theory is an active debate in the literature (Bradford and Jackson 2017; Tyler 2017).

“Creative non-compliance” as a rationalization is consistent with McLean and Wolfe’s theory and may help to explain why some factors are significant predictors of noncompliance but not others. For instance, it may be the case that those who trust and support the Government are in turn more likely to

engage with rationalizations that rely on the “spirit of the law,” rather than its detail. Likewise, it may explain why what Jackson and Bradford describe as the “expressive function of the law” (Jackson and Bradford 2021) – rather than instrumental fears of enforcement action – is a significant factor in predicting compliance in the course of the COVID-19 pandemic. As they argue, “the legal system seems to have acted as an expressive agent,” with participants responding to “the message to the nation that the threat is to the national group rather than the individual,” not a detailed and instrumental understanding of the restrictions themselves (ibid).

Rule bending as justified noncompliance

Direct treatment of “rule bending” is not widespread in studies of compliance, but when it is, it is usually treated as a measure of “rule cynicism” (Trinkner and Cohn 2014). For instance, in their ongoing study of compliance with Covid-19 restrictions in the UK, Jackson et al asked survey respondents their views on the legitimacy of “rule bending,” however, these attitudes are reduced to their effect on compliance alongside any other independent variable (Jackson et al. 2020). Previous research by Tyler and Jackson has also treated a propensity to bend rules as a negative indicator of an individual’s perceived “obligation” to obey the law (Tyler and Jackson 2014: 83).

Our findings instead suggest that “rule bending” is a form of justified noncompliance. When asked about distinctions between rule bending and rule-breaking, participants gave “creative non-compliance” rationalizations. It is not the case that participants thought no rule had been broken at all, but rather any such breach was justified in the case of “rule bending.” This has two implications. First, seeking participant views on “rule bending” is unlikely to be a good proxy for “rule cynicism” in response to the Covid-19 pandemic. Our data suggests that attitudes to rule bending are different to attitudinal measures that usually form part of rule cynicism, like “laws were made to be broken.” This is because these measures present unjustified rule breaking, while our participants generally considered “rule bending” a form of justified rule breaking. Second, questions on attitudes to “rule bending” in studies of compliance may be in turn be questions about propensity for a “creative non-compliance” rationalization. In line with McLean and Wolfe’s work above, the reason why attitudes to “rule bending” may present as a significant predictor of noncompliance in statistical analysis, is because those participants are more likely to engage with creative noncompliance rationalizations.

Conclusion

This paper has outlined the concept of “creative non-compliance” – a rationalization for non-compliant behavior that prioritizes compliance with the “spirit of the law” over the “letter of the law.” Our findings have implications cross-cutting the literature on neutralization theory and studies of compliance rooted in theories of procedural justice and legitimacy. But they also have practical consequences for managing ongoing responses to this pandemic and future comparable public health interventions.

On the first, our findings are a departure from established neutralization theory, which is rooted in “norm negation” (Kaptein and van Helvoort 2018: 1271). Our theory instead suggests that, in the context of the COVID-19 pandemic, participants rationalized their noncompliance with restrictions as being entirely consistent with the norms underpinning regulations – not by rejecting or supplanting these norms. For studies of compliance with a focus on procedural justice and legitimacy factors, our findings suggest that criticisms of “post hoc” rationalization leading to measurement errors do not bite in the context of the COVID-19 pandemic. Instead, our theory of “creative non-compliance” is entirely consistent with these factors having a bearing on compliance and rationalizations may be

one mechanism through which these effects are realized. However, our data do suggest that “rule bending” is not a good measure of “rule cynicism” – indeed, participants could “bend” a rule while remaining entirely convinced of its legitimacy.

On the second, our findings suggest that Government communications are capable of influencing behavior through their effect on rationalizations for noncompliance. The dominance of “creative non-compliance” rationalizations within our sample suggests that public communications on large-scale restrictions should always marry the “spirit” with the “letter”. The public prioritize an understanding of the underlying purpose behind the introduction of measures when rationalizing their behavior, as opposed to an understanding of the detailed content of the restrictions themselves. Government messaging on “common sense” approaches appeared to influence some participants, who mirrored some of the language from Government communications when justifying their non-compliant behavior.

Although our data points to clear evidence of these “creative non-compliance” rationalizations, our study has limitations. As our sample is non-representative, non-generalizable, and confined to the United Kingdom, more work could be done to explore whether these same rationalizations persist in other countries with different approaches to the COVID-19 lockdown restrictions (for instance, those countries rated as the most stringent on the Oxford Covid-19 government response stringency index, such as Ireland, Libya and Peru (University of Oxford 2021)). Likewise, our study is confined to a particular, finite period of very severe COVID-19 restrictions in the UK. Future research on “creative non-compliance” rationalizations should explore whether these rationalizations persist for less severe ongoing restrictions, and whether “creative non-compliance” rationalizations justify noncompliance in response to other forms of regulation.

More broadly, our theory of “creative non-compliance” illustrates the value in complicating the notion of “compliance.” Our findings illustrate how individuals can evade legal control in one sense (by neglecting the “letter” of the law) while being subordinate to its norms in another way (by adhering to the “spirit” of the law). This builds on the considerable literature on “creative compliance,” where corporate actors do the opposite to our participants: evading the “spirit” through adherence to the “letter.” So, somewhat counter-intuitively, in our study a commitment to the norms of lockdown restrictions in turn inform rationalizations for breaking them. Therefore, the theory of “creative non-compliance” contributes to the question at the heart of Skyes and Matza’s influential “techniques of neutralization” study: “why [do] men violate the laws in which they believe?” (Skyes and Matza, 1955: 666).

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