

Formal and Social Enforcement in Response to Individual vs. Corporate Transgressions

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Abstract

Social enforcement of norms governing appropriate business practices, through online and social networks, is regarded as an effective alternative to formal, state-sponsored enforcement. However, recent research finds that such norms are interpreted differently when applied to individual actors than when applied to corporations. This paper finds that this difference transcends to enforcement, and that willingness to actively respond to a transgression depends on both the transgressor's identity and the type of violation. Three studies found that people are reluctant to substitute social enforcement for state-sponsored action, and that the preference for formal over social action was generally more pronounced when the target of the action was an individual than when the action targeted a corporation. Furthermore, individuals were judged more severely for intentional harms, whereas corporations received higher levels of critique for violations caused by negligent behaviors. Our findings suggest that the state may need to exercise caution in outsourcing norm enforcement in commercial relationships.

I. INTRODUCTION

The rise of the Internet and of social networks has expanded the variety of sanctions people can apply in response to transgressions. In the past, the ability to publicize wrongdoings and mobilize wide social reactions was limited, but today, aggrieved parties possess a range of means that enable them to reach diverse audiences, earn widespread support, and apply large-scale social sanctions (Markel, 2001). A key form of retaliation against unfair practices is social enforcement: the decentralized action of monitoring, identifying, and reporting misconducts. Social enforcement is widely recognized as a key factor in providing incentives for good practices and cooperation. Prior research suggested that social enforcement could replace more expensive and risky formal enforcement used by the state to punish wrongdoers. The present work challenges this view, showing that the two enforcement mechanisms are not mere substitutes but rather function within the same social space, and at times may influence one another. Additionally, although social action can promote effective enforcement and increase compliance, it also introduces new risks, such as weakening the ability of the accused party to defend itself, opening the aggrieved party itself to public scrutiny, and generating arbitrary and somewhat erratic sanctions (Kahan, 2006).

One of the concerns surrounding social enforcement is that it may not be applied consistently vis-à-vis different transgressors, such as individuals and corporations. Although in most business contexts, the same rules, regulations and norms apply equally to individual and corporate entities, people evaluate their actions, motivations, and capabilities differently. For example, corporations are perceived as having the same capability as humans for volitional action but not for experiencing feelings (Knobe & Prinz, 2008). Past studies have also examined the way in which these differences influence judgment in business decisions made by individuals and

corporations, and the implications of these differences. For example, courts impose larger penalties on corporations (e.g., Viscusi, 1998), whereas lay individuals judge them more leniently for breach of contract (Haran, 2013). The present research attempts to reconcile these inconsistencies by eliciting the judgments of actions taken by both individual and corporate actors in different business contexts and by examining punitive intentions targeted against them following a transgression. Additionally, the present work aims to examine the factors that affect people's motivation to apply either social or formal means of enforcement when the transgressor is a person or a corporate entity.¹

From a theoretical perspective, our work enhances the understanding of how people perceive and interpret misconduct by individuals and corporations. Identifying the kind of misconduct that triggers punitive reactions can provide an additional theoretical dimension to the growing interest in documenting peoples' perceptions and expectations from corporations and individuals. From an applied perspective, our research helps clarify the conditions under which the state can delegate enforcement duties to social means and institutions.

This article reports the results of three scenario-based studies, in which participants evaluated transgressions committed by individuals and corporations. The transgressions included the exploitation of bargaining power, strategic use of contractual ambiguities, and negligent behavior. These transgressions were committed within the following contexts: a purchase of land for the purpose of development (Study 1), the purchase of an apartment from a building contractor (Study 2), and an employment contract (Study 3). In all studies participants assessed the likelihood that they would take either formal or social action in response to the transgression.

We found that willingness to apply sanctions in the context of a contractual relationship is different for formal and social means of enforcement, and depends both on the identity of the

¹ We use the terms person and individual interchangeably throughout the article.

violator and on the nature of the violation. Specifically, we document the following distinct findings. First, we found that willingness to apply sanctions in the context of a contractual relationship is different for formal and social means of enforcement. Although social action is often quicker, easier and cheaper than formal action, participants in our studies still preferred to resort to formal means of response to violations. Second, the willingness to take each type of action depended on the identity of the target of the response. The preference for formal over social action was generally more pronounced when the target of the enforcement action was an individual than when it was a corporate actor. Finally, consistent with prior research, the nature of the violation affected the judging of individuals and corporations differently. Individuals were judged more severely for harms that were intentional but within their legal rights, whereas corporations received higher levels of critique for negligent behaviors that resulted in violation of the contracts between the parties. The remainder of this article is structured as follows: Section 2 presents the theoretical and empirical background of the paper, describes the main findings of the literature concerning social and legal enforcement, and introduces the main research questions. Section 3 reports the results of the three studies we conducted. Section 4 discusses the findings and maps their potential implications. Section 5 concludes and offers some thoughts for future venues of research in this area.

II. BACKGROUND

We begin by reviewing the main findings on social enforcement and on its relationship to legal enforcement. Next, we discuss the literature on corporate responsibility and its relationship with personal responsibility. Finally, based on these bodies of work we introduce the hypotheses that we tested.

A. Social and Formal Enforcement

1. Social Enforcement

Social enforcement—the decentralized, non-governmental enforcement of legal and ethical norms—has been receiving increasing attention from scholars in a wide range of academic disciplines, including sociology, psychology, management, economics and law, as well as from practitioners and policy makers (Lobel, 2004; Feldman & Lobel, 2009). Behavioral studies on social norms have gained high visibility within legal scholarship (Cooter, 1996; McAdams, 1997; for the most recent extensive review, see McAdams, 2015). This large body of work examined non-legal enforcement in numerous legal areas, using both theoretical and empirical tools. In the context of private law, for example, Bernstein (1992, 2001) analyzed the role of social norms in close-knit contracting communities; in the context of criminal law, Kahan (1996, 2006) examined the role that shaming sanctions should play within the penal system. The shift in focus to non-state enforcement stems from the recognition of the inherent limitations of formal enforcement, and from insights into the comparative advantage of non-formal sanctions (Feldman & Nadler, 2006; Feldman, 2009).

Behavioral research on social enforcement has been interested mainly in understanding the motivations of the people who engage in this type of enforcement. Studies examined the ways in which people negotiate the trade-offs between self-interest and cost-benefit calculations on one hand, and other motivations, such as resentment, altruism, and vengeance on the other (Kroll & Davidowitz, 2003; Fehr & Gächter, 2000; Price, Cosmides, and Tooby, 2002; Carpenter, Matthews, & Ong'ong'a, 2004; Fehr & Gächter, 2002). For example, in a study of a three-participant prisoner's dilemma game, cooperators were motivated mostly by retribution concerns, whereas defectors focused on utilitarian gains and were far less concerned with the ethics of the norm violator (Falk, Fehr, & Fischbacher, 2005). In sum, although self-interest and cost-benefit considerations are dominant in people's enforcement decisions, many experimental studies show that other motivations, such as altruism, reciprocity, and punitive sentiments also have explanatory power (Fehr & Gächter, 2000; Fehr & Fischbacher, 2004).

2. The Interaction between Social and Formal Enforcement

Social enforcement places some of the state's regulatory power and responsibilities in the hands of individuals. To understand why the state allows, and at times even encourages social enforcement, we must first account for the effect of such enforcement on the functioning of state institutions. This includes determining the optimal usage of the mechanism that ensures social enforcement, and assessing the ability of the state to modify the formal enforcement mechanisms according to the likelihood of effective social enforcement and its influence on the design of civil remedies (Feldman & Lobel, 2008). In the realm of private law, Cooter and Porat (2001) argued that courts should deduct the costs of non-legal sanctions from the damages they award to account for the externalities generated by adjudication. In the area of crime control, Harel and Klement (2007) show that the increasing prevalence of shaming might ultimately undermine deterrence, as avoiding interactions with shamed individuals becomes more and more difficult. Teichman (2005) developed two hypotheses regarding the relationship between legal and non-legal sanctions. On one hand, legal sanctions can serve as a signal that bolsters social enforcement. The legal reaction to a misdeed conveys information to the public about the severity of the act: the more severe the legal reaction, the harsher the social one is. Some empirical support for the signaling effect argument can be found in Lott's (1992) study of non-legal sanctions for larceny and theft. That study found that longer prison sentences are associated with lower post-conviction income, an effect that cannot be explained by the mere decline in human capital that occurred during incarceration. On the other hand, legal sanctions and social enforcement may serve as substitutes for each other. People hold preexisting views about the appropriate reaction to various acts, and determine their non-legal response in such a way that the combination of legal and non-legal responses fits their views. Empirical evidence of the substitution effect is found in the literature on the crowding-out effect, which shows that introducing organized regulatory and

market institutions (such as the law) results in reduced public motivation to create alternative social mechanisms (Titmus, 1971; Ostmann, 1998).

The findings discussed above suggest that formal and social enforcement may be viewed as complementary, but that they might also reinforce each other. It is quite likely that legal and non-legal sanctions interact differently in distinct contexts. When people have significant information on the nature of the situation and hold clear views about the scope of the desired response, the substitution model seems likely. For example, in simple bilateral contracts the parties may know what the desired remedy for breach is, and can attempt to shape their relationship accordingly. Conversely, when people hold little information and have limited knowledge about the size of the desired sanctions, they may view the law as a cue. For example, in complex settings involving sophisticated tax evasion, the law may be able to highlight the cases that merit strong social disapproval.

Although the understanding of the way in which social enforcement functions has advanced significantly, the literature has yet to map the relations between social enforcement and the underlying characteristics of the misconduct. In the following paragraphs we argue that understanding the way in which legal and social enforcement mechanisms function requires accounting for the identity of the offender as an individual or a corporation.

B. The Corporate-Individual Dichotomy

1. Perceiving Individuals and Corporations

The question why the behavior of individuals and corporations should meet with different moral judgment is typically preceded by the following, equally-fundamental questions: why would there be any similarities between the two, and why should we apply moral judgment to corporations at all? According to Ladd (1970), because corporations are not living things, they cannot have moral obligations or be morally at fault. However, there are several reasons for discussing ethical

judgments regarding corporations. First, the official formulation of ethical norms and codes of conduct—the law—regulates the behavior of corporate entities as well as that of natural persons. In the eyes of the law, the business corporation is the same as a person: it can own property, sue or be sued, it can be prosecuted, and it can be criminally liable for violating certain statutory provisions, just as a natural person can (Lipton, 2011). Second, people display a natural tendency toward anthropomorphic perceptions of corporations, which ascribe them human traits and attributes. Although people are well aware that corporations are highly unlike individuals, they still have emotions toward them and their actions, and perceive their behavior to be intentional and internally driven (e.g., Gray, Gray, & Wegner, 2007; Knobe & Prinz, 2008; Rai & Diermeier, 2015).

Finally, judging ethical conduct of corporations makes sense because although they are not persons *per se*, corporations consist of individuals. The aggregate theory of the corporation views it as a collection of individuals who contracted with each other to use the corporation for their mutual benefit (Ripken 2009). According to this view, the corporate person has no existence or identity that is separate from the natural persons who created it (Werhane, 1985). The entity, as Cressey (1989) described it, is “owned, managed, and administered by people, [and] its so called actions are but manifestations of actions by real persons.” All of these theories and rationales advocate regarding the corporation as a moral person, either because it shares contexts of operation with individual persons, because people form perceptions and attitudes toward them much like they do toward individual persons, or because they represent individual persons who operate collectively.

2. Judging the Actions of Individuals and Corporations

Although corporations are subject to moral judgment, they are not always judged in the same way as are individuals. A growing body of work documents cases in which a certain behavior is met

with different judgments and reactions when committed by a corporation and when committed by an individual (e.g., Haran, 2013; Rai & Diermeier, 2015). These differences stem from the fact that although the same principles guide the perception of individuals and corporations, they are nevertheless perceived differently. Through anthropomorphism, people ascribe some human traits and attributes to corporations, but they do not ascribe all human features to them. For example, corporations are regarded as being capable of having intentionality, which includes the ability to think, form opinions, and plan, initiate, and execute action. They are not, however, perceived to have the ability to feel or experience emotions. Knobe and Prinz (2008) report results of an experiment, in which participants rated sentences about corporations that expressed mental states tied to intentionality, e.g., “Acme Corp believes that its profit margin will soon increase,” as more natural than sentences that expressed mental states tied to phenomenal consciousness, e.g., “Acme Corp is getting depressed.” Consistent with this distinction, Rai and Diermeier (2015) found that as perpetrators of a violation, corporations and individuals were rated equally on agency (a mental state related to thinking, taking action, self-control, and intention), which led to similar ratings of blame. But as victims of a transgression, corporations were rated lower than individuals on experience (a mental state related to feelings), and consequently received less sympathy from participants.

These perceptual differences lead to biases in the ethical judgment of behavior. Although the perceived severity of an action should not be affected by the type of actor, people repeatedly treat corporations and individuals who engage in the same behavior differently. Hans and Ermann (1989) presented participants with a situation in which a person or a corporation hired workers for a job. After several weeks of work, some of the workers suffered severe health symptoms due to exposure to a toxic substance at the workplace, and sued their employer. The participants, functioning as mock jurors, found the employer responsible for a greater number of claims,

awarded the plaintiffs larger sums, and assigned more guilt to the employer when it was a corporation than when it was a person.

Studies of juries have also documented a corporate bias: a tendency to judge more harshly corporations that act similarly to individuals. Several scholars (e.g., Huber, 1990; Olson, 1992) have argued that juries are biased against corporate defendants in personal injury cases and seek to achieve equity by granting large awards in lawsuits against corporations with “deep pockets.” MacCoun (1996) examined this hypothesis in a series of mock juror studies and concluded that the overall hostility toward corporations is above and beyond the “deep pocket” explanation that corporations are perceived as wealthier and therefore able to pay more than are individuals.

Other research, however, found the opposite trend in judgment. Haran (2013) studied person-organization differences in judgments of contracts and contract breach. In several experiments, participants evaluated cases of a breach of contract by a corporation or a breach of the same contract by a person, either an independent individual or an executive in the corporation. People rated a breach of contract by an individual to be more immoral, unethical and greedy than a breach by a corporation. Haran argued that this pattern is rooted in the fact that although both corporations and individuals are expected to behave ethically, not all behaviors seem equally relevant for judging the ethical conduct of individuals and of corporations. In a related study, Haran and Rosenboim (2016) tested judgments of corporate debt settlements. In one study, participants rated the failure to repay the full value of an investment as less unethical when the debtor was a holding company than when it was the company’s controlling shareholder. In another study, participants learned that following the failure to return the full value of a previous bond, the company plans to issue a new bond to fund another investment, and estimated the interest rate they would require in order to invest in this bond. The average required interest rate was significantly higher in the case of the controlling shareholder than when the focal actor was the holding company itself.

While the overall picture of the corporate-individual dichotomy is somewhat complex, a few generalizations can be made. Corporations are perceived to have fewer constraints on their actions compared to individuals. Research on the intuitive perceptions of corporations (e.g., Gray et al., 2007; Knobe & Prinz, 2008) has found that people expect corporations to be relatively less constrained by emotions. As a result, although both corporations and individuals are expected to obey the law and explicit moral norms to the same degree, person-corporation differences emerge when the legal violation is unclear. Specifically, people exhibit greater sensitivity to intentional transgressions caused by a person, while being more critical of negligent corporations. Hamilton and Sanders (1999) argued that corporations are perceived to be relatively unaffected by factors that bias decision making, such as emotion and bounded cognition; therefore, people expect them to have greater foresight than individuals. They conducted an experiment in which participants judged transgressions of high mental state (i.e., with malevolent intention) and low mental state (i.e., without malevolent intention). Participants rated corporations as being more responsible than individuals for accidental violations, but rated the two equally culpable for violations caused by malicious intent. In the present research, we build on these findings and test the relationship between different violation types and different violator identities, and its influence on people's moral judgments and their willingness to apply sanctions on the violators.

C. Summary and Research Hypotheses

The present paper aims to bridge the gap between the literature on social and formal enforcement and the literature on judgments of individual and corporate actors. It contributes to the social enforcement literature by clarifying how transgressor identity and the type of transgression affect the likelihood and method of enforcement. Given the differential sensitivity of corporations and individuals to different types of enforcement, understanding the antecedents of enforcement can enrich the person-organization literature as well.

The following hypotheses emerged from the foregoing discussion:

H1a: Social action is perceived as a viable substitute for formal means of responding to transgressions, therefore willingness to engage in formal enforcement remains higher than the willingness to engage in social enforcement.

H1b: Punitive intentions, whether by formal action or by social action, depend on both the identity of the transgressor and the nature of the transgression.

H2: A malicious, intentional violation committed by a person receives harsher judgment than the same violation committed by a corporate actor, but the opposite happens when the violation is caused by negligence, with no intention to actively harm the victim.

III. STUDIES AND RESULTS

This section reports the results of three studies, in which participants read vignettes describing a transgression committed by an actor in a contractual relationship. We randomly varied the identity of the actor, so that half of the participants read about a person and the other half about a corporation. We also randomly varied the type of transgression committed by the actor. After reading the vignette, participants rated the unethicity of the actor's behavior and their willingness to take certain actions against the actor. The proposed actions were of two types: (a) formal enforcement, resorting to instruments and institutions provided by the state, and (b) social enforcement, relying on social media and on one's social ties to harm the actor's reputation.

We tested participants' reactions to transgressions in the context of a real estate development deal (Study 1), the purchase of a new apartment (Study 2), and labor relations (Study 3). In the first two studies, participants were instructed to imagine themselves as the aggrieved party, whereas in Study 3 the person harmed by the transgression was described in greater detail, and participants provided third-party ratings of the transgressor's behavior.

Participants were sampled from a population of undergraduate management students in Israel (Study 1), undergraduate law students in Israel (Study 2), and US residents at large, through Amazon.com Mechanical Turk (Study 3). The full experimental materials are provided in the Online Appendix.

A. *Study 1: Real Estate Contract*

This study sought to examine people's attitudes and willingness to take formal and social action in response to transgressions committed by individuals and corporations. We tested three types of transgressions: exploiting power differences between the parties, taking advantage of an ambiguity in agreement terms, and harmful negligence.

1. Method

Two hundred one undergraduate management students at an Israeli university (149 females; $M_{age} = 24.2$) completed a "business case study evaluation" study in the lab, in exchange for course credit. In a 2 (actor) \times 3 (transgression) between-subjects design, each participant read one of six scenarios. The scenarios were written in Hebrew. Participants were asked to imagine that they had signed a contract for the purchase of a stake in land. The land was currently zoned for agriculture, but the process of re-zoning it for housing was in "advanced stages" of completion. The stake was purchased for NIS 200,000 (~\$50,000) to be paid in fixed installments over a period of one year. For half of the participants (the *person* condition), the counterparty to the contract was Mr. Asher Cohen, the son of the owner of the land, whereas for the other half (the *company* condition) the counterparty was Shdemot Holding Company, which owns the land.

Each participant read one of three conclusions of the scenario. Participants in the *exploit power* condition read that a few months after the signing of the deal, one of their close relatives became seriously ill, which required a great deal of their financial resources. Therefore, they

asked the seller to freeze the payments for two months to enable them to deal with the more pressing medical bills. The seller answered that the delay in payment would result in an NIS 10,000 (~\$2,500) penalty, according to the terms of the agreement. Participants in the *ambiguity* condition read that a few months after the signing they found out that although the re-zoning of the property was presented as being in “advanced” stages of the approval process, in reality there were three important steps to be cleared before the land could be used for housing. The seller maintained that the term “advanced stages” was never precisely defined and that it means merely that several important stages in the process have been completed. Participants in the *negligence* condition read that after a few months it becomes clear that the re-zoning procedure had changed, but the seller mistakenly filed the application for approval according to the old regulations. The consequence of this negligence is a delay of at least two years in the re-zoning process.

After reading the scenario, participants completed a questionnaire. The questionnaire measured participants’ anticipated emotional reactions to the case, their judgments about the seller’s character and behavior, and the likelihood of their taking formal or social action against the seller.

Emotional reaction and moral judgment of the seller and the seller’s behavior: Participants rated on a scale ranging from 1 (not at all) to 7 (very much) the extent to which they would feel insulted, cheated, betrayed, and angry by the seller’s behavior, and their desire that the seller would pay a price for this behavior. They also estimated, on a scale ranging from 1 (completely disagree) to 7 (completely agree) their agreement with statements that this behavior was immoral and in violation of principles of business ethics, as well as with statements that this behavior constituted a legitimate business decision and that the actor was immoral, greedy, dishonest, and “a stain on Israeli society.”

Willingness to take formal and social action: Participants estimated the likelihood that they would take action against the seller, using a 1 (no chance) to 7 (certain) scale. They were asked about two types of action. Possible formal actions were writing a formal complaint to the relevant regulatory body, writing a formal complaint to the seller, seeking legal counsel, suing for damages, or filing a lawsuit to annul the deal. Possible social actions were making an angry phone call to the seller, writing a comment on an Internet site about the seller, posting a Facebook status accusing the seller, informing the seller's other clients of this behavior, and opening a Facebook group of clients harmed by the seller. The order of presentation of all item categories (judgments of the actor and the actor's behavior, and intended formal and social action) were counterbalanced. The order of presentation of items within each category was randomized between participants. Finally, in this study, as well as in subsequent ones, we collected a few additional measures, which were less central to the reported results and which appear in the Online Appendix.

2. Results

Ratings of formal and social enforcement:

The formal action and social action items displayed good inter-item reliability (Cronbach's alpha = .87 and .83, respectively) and were grouped into two items. We conducted a 2 (actor type) \times 3 (transgression type) \times 2 (response type, analyzed within-subjects) mixed analysis of variance (ANOVA). Consistent with Hypothesis 1a, the analysis yielded a main effect of response type, whereby participants reported greater likelihood of taking formal action in response to a violation of the contract than social action $F(1,195) = 23.68, p < .001$. In addition, the analysis revealed a main effect of transgression type on willingness to take action, $F(1,195) = 4.84, p = .009$, but no main effect for actor ($F < 1$) or a significant interaction, $F_s < 1.54, p_s > .21$, providing only partial support to Hypothesis 1b (See Figure 1).

Figure 1 about here

Emotional reaction and moral judgment:

The emotional reaction (feeling cheated, betrayed, angry, insulted and wishing that the seller pay a price) and moral censure (perceiving the behavior as immoral and unethical and the seller as immoral, greedy, dishonest, and a stain on society) items showed good-to-high inter-item reliability (Cronbach's alpha = .89 and .92, respectively) and were grouped into two items.

We conducted a 2 (actor type) \times 3 (transgression type) multivariate analysis of variance (MANOVA) on the combined emotional reaction and moral censure variables. Consistent with Hypothesis 2, we found a main effect for violation type on both participants' emotional reactions, $F(2,195) = 8.48, p < .001$ and moral censure, $F(2,195) = 17.77, p < .001$, as well as a significant interaction between actor type and harm type on both measures (emotional reactions: $F(2,195) = 7.73, p = .006$; moral censure: $F(2,195) = 5.79, p = .03$). Figure 2 shows that people judged an individual more harshly for intentionally abusing his power vis-à-vis the aggrieved party, but judged a company more harshly for being negligent. Exploiting ambiguities in the contract was perceived as the most egregious of the three cases. A similar, univariate ANOVA on judgment of the seller's behavior as a legitimate business decision found a significant effect for transgression type, $F(2,195) = 3.72, p = .03$, with no effect of actor or an interaction. Planned contrasts reveal that for a corporate actor, the negligent violation was perceived as less legitimate ($M = 2.85, SD = 1.94$) than the intentional violations ($M = 3.59, SD = 1.64$), $t(99) = 2.03, p = .04$, whereas for an individual actor no differences in judgment were detected (negligence: $M = 3.00, SD = 1.24$; intentional violation: $M = 3.28, SD = 1.49$), $t < 1$.

Figure 2 about here

3. Discussion

Study 1 demonstrates that people's willingness to impose sanctions against violations of contractual relationships depends not only on the type of violation but also on the identity of the violator and on the proposed action. Across conditions, participants exhibited relative reluctance to take social action and greater willingness to take formal action, consistent with Hypothesis 1a. The differences between these effects on each type of enforcement suggests that participants did not view them as substitutable to each other, nor did they perceive formal and social enforcement to be different displays of the same behavior.

Willingness to punish an individual was not significantly different than the willingness to punish a company, but the nature of the transgression affected participants' punitive intentions. In addition, consistent with Hypothesis 2, participants voiced harsher criticism of a person than of a corporation that caused intentional harm, but judged the corporation more severely than the person for being negligent. These different reaction patterns to individual and corporate actors, while consistent with prior findings, were not evident in participants' enforcement intentions. To examine whether these inconsistencies were a function of the specific stimuli presented to our participant sample or whether they reflect a more general pattern of judgment, we defined the different transgressions more precisely in Study 2.

B. Study 2: Building Contractor Dispute

This study was designed to generalize and enhance the insights derived from Study 1, in two main aspects. One was to provide a more precise description of an ambiguous violation. In this study,

we presented a case in which the actor takes advantage of incomplete definitions and specifications in the contract in order to shirk responsibility for not meeting the counterparty's expectations. Additionally, to improve ecological validity, we conducted the study among law students, who are savvier than management students (who comprised the participant sample of Study 1) with legal definitions.

1. Method

One hundred sixty-nine law students at two Israeli universities (87 females, 77 males, 5 declined to report; $M_{age} = 23.55$) completed a questionnaire at the end of class. Participation was voluntary.

Each participant read one of six scenarios, in a 2 (actor) \times 3 (transgression) orthogonal between-subjects design. The scenarios were written in Hebrew. In the *person* condition, the scenario started as follows: "Suppose you bought an apartment in a newly-constructed building from the contractor Yossi Shenhav." In the *company* condition, the scenario identified the seller as "Shdemot Holding Company." The scenario went on to describe the transgressions committed by either the person or the company. In the *exploit power* condition, participants read that before moving into the apartment, they asked the seller to install additional electrical outlets, a job which is both relatively easy and inexpensive to complete, and should amount to about NIS 1,000 (~\$250). The seller, who had not yet handed over the apartment, demanded NIS 21,000 (i.e., the expected cost, plus an additional NIS 20,000) for this work. Participants read that they consulted with a certified electrician who estimated that installing the additional outlets after the completion of all other work in the apartment would be much more complex and would cost about NIS 30,000.

In the *ambiguity* condition participants read that after they moved into the apartment, it became clear that the seller had used unreliable components for the electrical infrastructure to cut

costs. This resulted in many electrical problems in the apartment. The estimated cost of redoing the electrical work in the apartment was NIS 20,000 (~\$5,000). Participants learned that because the purchase agreement does not specify the materials to be used for the electrical infrastructure, the seller refused to take responsibility for the repair work, and that they would have to cover its cost.

In the *negligence* condition, participants read that after they moved into the apartment it became clear that the seller violated planning and construction laws, and installed electrical outlets too close to each other. The municipal inspector sent a warning letter ordering repairs within 30 days. Participants learned that the estimated cost of this repair was NIS 20,000 and that the seller refused to pay for this work, therefore they would have to cover and its cost.

We elicited participants' emotional reactions to the case and their judgment about the seller using the same items as in Study 1. Then, we presented participants with a list of possible actions that can be taken against the seller. Formal actions included seeking legal counsel, filing a complaint with a consumer protection agency, filing a complaint with the seller's professional association, and suing the seller in court. Social actions included making an angry phone call to the seller, posting a comment on an Internet site about the seller, posting a status about the seller on Facebook, creating a Facebook group directed against the seller, informing other customers and potential customers of what had happened, and publishing an ad in the newspaper describing the seller's behavior. We asked participants to estimate the likelihood that they would take each action in response to the transgression on a scale ranging from 1 (no chance) to 7 (certain).

2. Results

Ratings of formal and social enforcement:

As in Study 1, likelihood ratings of formal and social action displayed good inter-rater reliability (Cronbach's alpha = .79, .78, respectively), and were grouped together into two variables. A 2 (actor type) \times 3 (transgression type) \times 2 (response type, analyzed within-subjects) mixed ANOVA found a main effect for type of enforcement, $F(1,161) = 33.17, p < .001$. Consistent with Hypothesis 1a and the results of Study 1, participants rated the likelihood of taking formal action as higher than their likelihood of taking social action (see Table 1). Consistent with Hypothesis 1b, the analysis also found a significant effect of the type of transgression committed, $F(2,161) = 7.99, p < .001$, as well as significant interactions of enforcement type with both actor type $F(1,161) = 5.68, p = .02$ and transgression type, $F(2,161) = 3.77, p = .02$, and a marginally significant 3-way interaction, $F(2,161) = 2.55, p = .08$. The interaction suggests that the preference for formal over social action was more pronounced when the target of enforcement was a person than when it was a company (see Table 1).

Table 1 about here

Emotional reaction and moral judgment:

The items measuring emotional reactions (feeling insulted, cheated, betrayed, angry, wishing that the seller pay a price), and moral censure (perceiving the behavior as immoral and unethical, and perceiving the actor as greedy, dishonest, and a stain on society) displayed good inter-item reliability scores (Cronbach's alpha = .76 and .78, respectively) and were grouped together into two items.

A 2 (actor type) \times 3 (violation type) MANOVA on emotional reaction and moral judgment found a main effect for actor, $F(2,162) = 4.33, p = .01$: participants expressed harsher

moral censure against the person ($M = 5.63$, $SD = 0.86$) than against the company ($M = 5.28$, $SD = 1.15$; $F(1,163) = 5.20$, $p = .02$). The analysis also found a main effect for violation type, $F(4,326) = 6.22$, $p < .001$; a planned contrast between the exploit-power condition to the other two cases found that this violation was met with more lenient moral censure, $F(2,163) = 3.26$, $p = .04$, and with less extreme emotional reactions, $F(2, 163) = 11.30$, $p < .001$, than the other two violations. Although these patterns are consistent with our prediction, the actor type \times transgression type interaction term was not significant, $F < 1$, therefore Hypothesis 2 was only partially supported.

3. Discussion

The results of this study are consistent with those of Study 1. Participants reported reluctance to engage in social enforcement, relative to using formal means of enforcement against violators of contractual relationships. Willingness to apply formal enforcement was higher in case of negligence than in the case of power or ambiguity exploitation, but this difference was not observed in willingness to apply social enforcement.

Except in the case of negligence, reactions toward an individual transgressor were somewhat more critical and aggressive than those toward a corporate transgressor. Including in this study the case of exploiting ambiguities in the contract revealed an instructive effect regarding the transgressor's identity: participants in the *person* condition perceived this case as similar to the unambiguous negligence case, reporting greater likelihood of taking formal action than social action, $t(35) = 4.32$, $p < .001$. Participants in the *company* condition, however, treated the ambiguity exploitation case similarly to the power exploitation violation, i.e., as a moral violation but not a legal one; their willingness to take formal action in response to this violation was significantly lower than that reported in the *person* condition, $t(63) = 2.50$, $p = .01$. This result might echo contract doctrines such as unconscionability and *contra proferentem*, which tend

to favor unsophisticated contracting parties who face savvy counterparts. Participants might have equated between the corporation-individual divide and the unsophisticated-savvy divide, and concluded that in cases of ambiguous contractual behavior their ability to receive legal recourse when facing a corporation is relatively greater.

In the following study, we sought to generalize our findings to a contractual setting that presents a much larger power discrepancy between the parties than that which exists in a buyer-seller relationship. If exploitation of one's power is judged differently, based on whether the exploiting party is an individual or a corporation, such differences may have different implications when this party has a large power advantage over its counterpart.

C. Study 3: Employment Relationship

Study 3 employed a similar design to the one used in the previous two studies, with a few notable differences. One difference was in the context of the contractual relationship. Whereas the first two studies investigated buyer-seller relations and real estate deals, the current study focused on an employer-employee relationship. Unlike relations in the previous two cases, this type of relationship is maintained over time, so that violations have different implications than they do in non-recurring purchase transactions, with regard to the history between the parties. Furthermore, employment relations tend to be characterized by stark power and status differences between the parties. This may affect people's motivation to engage in formal or social enforcement when dealing with transgressions. To prevent variability between participants in these situations of perceived power differences, the scenarios described both parties (rather than instructing the readers to imagine themselves as one of the parties), and described transgressions that occurred at the end of the employment relationship, i.e., at the time of the employee's retirement.

In this study we also attempted to elicit real enforcement action on the part of participants by asking them to provide an email address for possible correspondence about organized action

against harmful employment practices. Note that the constraints of conducting a behavioral experiment did not allow us to apply formal sanctions against someone, therefore elicitation of actual behavior was limited to social action, about which we did not find intergroup differences in the two previous studies. Nevertheless, we wanted to find out whether our experimental manipulations could affect actual participation in social action. We did not formulate a hypothesis about these participation rates, and therefore added this exploratory measure at the end of the study.

1. Method

Two hundred eighty US-based participants completed an Employer Practices Survey on Amazon.com Mechanical Turk.² They were paid \$0.40 for participating, the standard rate for studies of this length.

In a 2 (actor) × 3 (transgression) orthogonal between-subjects design, all participants read a scenario about David H., a retiring department store employee. We manipulated the identity of the employer by identifying the owner and operator of the store as Mr. Andrew James in the *person* condition or BMS Inc. in the *company* condition. Each participant read one version of the scenario, which described one of three transgressions committed by the employer.

Exploiting power:

In this scenario, it was found that David “should receive about \$80,000 in past tax credits from the IRS by virtue of a rule applicable to retirement savings. When David asked [the employer] to provide him with his past payment forms, he was told that because [the employer] was not required by law to supply these forms, he would be charged a fee of \$3,500 to reissue them. It was clear, however, that the forms could be reissued by [the employer] at a negligible cost.”

² Because of a technical error, demographic data were not collected.

Exploiting flexibility in the contract:

In this scenario, it was found that the employer “chose a retirement investment plan that did not best serve David’s interests. This plan was known for the low fees it charged employers and its poor returns on its clients’ savings. This choice by the company decreased the amount of money David saved for retirement by about \$80,000.”

Negligence:

In this scenario, the employer “had failed to disclose to the employee important information that could have affected his tax liability in the past. Among other things, these disclosures would have allowed David to claim several tax credits that were available to people working in his position. This negligence by the company decreased the amount of money David had saved for retirement by about \$80,000.”

After reading the scenarios, participants estimated the likelihood that they would take action in response to the violation that was presented to them, had they been in the employee’s situation. Participants provided likelihood estimates for formal actions (suing the employer and filing a formal complaint with the state department of labor), and for social actions (posting the information about the employer on social networks such as Facebook and Twitter, and joining a consumer boycott campaign against the employer). Responses were recorded on a scale ranging from 1 (very unlikely) to 7 (very likely).

Next, we asked participants to rate their moral censure of the employer’s behavior by rating their level of agreement with statements judging the behavior as immoral, greedy, unfair, and disgraceful. All items were scored on a scale ranging from 1 (strongly disagree) to 7 (strongly agree).

Finally, after completing the questionnaire, participants were asked whether they were interested in receiving more information in the future about organizing actions against employer practices such as the one about which they had read. Those who indicated that they were interested in such information were asked to provide their email addresses.

2. Results

Ratings of formal and social enforcement.

The formal and social action items correlated moderately with each other within their respective categories ($r_s = .64$ and $.73$, respectively), and were grouped together into two items. A 2 (actor type) \times 3 (violation type) \times 2 (response type, analyzed within-subjects) mixed ANOVA revealed a main effect for enforcement type, $F(1,274) = 141.23, p < .001$, replicating the effect found in the previous two studies and providing further support for Hypothesis 1a. The analysis also found a main effect for actor type, $F(1,274) = 6.18, p = .01$, and significant interactions of enforcement type with both actor, $F(1,274) = 7.16, p = .008$, and violation, $F(2,274) = 7.62, p = .001$. These results are consistent with Hypothesis 1b, as well as with those found in Study 2. Figure 3 shows that whereas willingness to take formal action did not differ in the *company* and *person* conditions, participants were more reluctant to take social action against a person than against a company, $F(1,274) = 10.54, p = .001$.

Figure 3 about here

Moral judgment.

The moral censure items displayed good inter-item reliability (Cronbach's alpha = .88) and were grouped into one variable. We tested for effects on this combined measure using a 2 (actor type) × 3 (violation type) ANOVA. We found a main effect for the type of transgression, $F(2,274) = 6.51$, $p = .002$, but no main effect for actor type, $F < 1$. Figure 4 shows that participants viewed the exploitation of power by a person as more egregious than cost-saving policies and negligent behavior, $F(2,137) = 6.67$, $p = .002$, but this difference was attenuated in evaluations of the company's behavior, $F(2,137) = 1.41$, $p = .25$. Despite these effects, the actor × violation interaction did not reach statistical significance, $F(2,274) = 2.18$, $p = .11$, thus failing to fully support Hypothesis 2.

Figure 4 about here

Willingness to participate.

Finally, we compared the ratios of participants in each condition who were willing to provide an email address to receive future information about organized action against harmful employment practices. Ninety-five of the 280 participants (33.9%) indicated willingness to receive more information, and 92 of these provided valid email addresses. These rates were strikingly similar in all conditions, ranging from 14 to 18 people in each group. A 2 (actor type) × 3 (violation type) between-subjects ANOVA on willingness rates did not find any significant effects, all F s < 1.

3. Discussion

In employment relations, as in business transactions, taking formal and social action in response to violations of contractual obligations depends not only on the transgression but also on the identity of the violator. In Studies 1 and 2, which revolved around buyer-seller contracts,

willingness to take formal action was higher than willingness to engage in social enforcement, but also more sensitive to the type of transgression to which it responded, as well as to violator identity. In Study 3, which presented participants with descriptions of employer-employee relationships, we again found relative reluctance to take social action against the violator. However, in this context we detected a significant violator effect on *social* action, but not on formal action. As we noted in the introduction to the study, employment relationships are fundamentally different from those between buyer and seller, especially in their duration, importance in one's life, and inherent power disparity. Under these conditions, participants' approaches to formal and social actions were more consistent across different violations.

IV. GENERAL DISCUSSION

A. Summary and Theoretical Implications

The experimental findings reported here suggest that moral judgment of violations of contractual relationships and willingness to apply sanctions in response to these violations depend on both the identity of the violator and the nature of the violation. We predicted that people would prefer formal means of enforcement in response to violations over seemingly easier and cheaper social action (Hypothesis 1a) and that the willingness to act would depend not only on the severity of the transgression but also on whether the violator is a person or a corporate actor (Hypothesis 1b). We also predicted a similar interaction effect on people's emotional reactions to, and moral judgment of the violations. Specifically, we predicted more extreme reactions to a malicious, intentional violation committed by a person than by a corporation, but the opposite trend for violations caused by negligence. Our results fully support Hypothesis 1a, whereas Hypotheses 1b and 2 received partial support.

First, we observed a clear preference for formal over social enforcement in response to violations of the contractual relationship. Although social action can be applied more quickly,

easily and cheaply than formal action, participants in our studies still preferred to resort to formal means of response to violations. This suggests that social enforcement may not be an efficient substitute to formal enforcement as was previously thought. This difference was consistent across studies and conditions, but it seems to be the most pronounced in cases of negligence, regardless of the target of the sanction.

To be sure, formal and social means of enforcement are not always comparable. Our experiments were intentionally designed to capture situations in which social and legal enforcement could reasonably play a role. The contracting parties described were in all likelihood at least somewhat concerned for their reputations, thus rendering them sensitive to social enforcement. Also, the harms caused by the different transgressions were significant enough to reasonably consider legal recourse, but not too grave for social action to constitute an effective response. In other words, our results do not suggest that consumers who are unsatisfied with the quality of service at their local coffee shop are going to flock to the courts to receive their remedy.

We also found that participants did not show the same degree of willingness to take enforcement action against all types of actors. While participants generally preferred formal action over social action for dealing with an individual, this preference was attenuated when the target of the action was a corporation. This result may have to do with the particular moral judgment that was applied by participants to individuals and corporations, which regarded individuals' exploitative behavior as more immoral in arm's-length contracting (Studies 1 and 2). Differences in willingness to take action were not consistent across types of enforcement. Whereas the willingness to take formal action differed between the various violations, attitudes toward social enforcement remained relatively stable.

Finally, the differences in reactions to intentional and negligent harms were not the same for corporate and individual transgressors. In Study 1, participants judged a negligent corporation

more severely than an individual, but rated an individual's intentional transgression as more egregious than the same action by a corporation. A similar pattern was observed in Study 3, where participants were more critical of an individual for abusing his power than for being negligent, but did not show the same difference in attitudes toward a corporation. These findings help reconcile the seemingly inconsistent findings of past research, which found at times harsher judgment of corporations, and at other times harsher judgment of individuals.

The data accumulated in the three studies trigger various theoretical arguments that create a platform for normative discussions as well as future empirical studies. Our findings challenge the view of social and formal enforcement as complementary to each other. Rather than associating greater willingness to engage in one type of enforcement with lower willingness to apply the other, we found the two enforcement types to be independent of each other. Willingness to apply social enforcement was relatively stable across transgression types, whereas formal enforcement varied considerably from one context to another. This suggests that although, under some conditions, the state may want to promote privatized enforcement of norms in contractual relationships, people's willingness to forgo state-sponsored action in favor of social actions may be limited, as noted above, and also subject to previously-documented person-corporation perceptual biases. The complex interaction we found in this paper with regard to two enforcement styles, as well as for the interaction between the identity of the wrongdoers and the type of offense, suggests the need for a more cautious approach toward relying on social enforcement than previously suggested.

Our findings suggest that the likelihood of engaging in formal enforcement against a corporation is determined by different factors than those influencing decisions of enforcement against individuals. Similar to findings of prior research, participants in our studies exhibited more punitive intentions toward corporations who have been negligent than following other transgressions, whereas the same pattern of attitudes was not observed for individual actors.

Haran (2013) suggested that such differences might stem from differences in moral expectations from corporations and individuals: taking action against a corporation would depend on whether it violated a clear law or norm, whereas this question plays a lesser role when the violator is a person. Hamilton and Sanders (1999) argued that people expect corporations to be less prone than individuals to negligent mistakes and therefore are more critical of them for such failures. Our results, combined with these earlier findings, can help predict which transgressions, committed by which type of actor, are more likely to go unpunished, beyond the formal distinctions made by the law.

The results highlight the importance of the scope of legal regulation. In a person-to-person context, soft social norms may be enforced by social means, but these means are less available when dealing with corporate players. This is the case, for example, in the ongoing debate about the desirability of creating legally binding good-faith obligations between contracting parties. As our findings show, although individuals who act in bad faith may be subject to social sanctions, corporations that do so might go unpunished if the obligation is not backed by a clear legal obligation (e.g., disclosure duty).

B. Limitations and Directions for Future Research

In this final subsection we wish to acknowledge the limitations of our study. These limitations relate both the methods employed in our experimental design, as well as to the theoretical aspects of our claims. Building on these limitations, we highlight potential avenues for future research that could help deepen our understanding of the role the corporate identity plays in contractual relationships.

Our studies measure behavioral intentions in hypothetical scenarios, and we lack data about actual rates of formal and social enforcement. Judging hypothetical scenarios requires careful estimation of both one's emotional state and the cost of engaging in enforcement actions.

Although this limitation applies equally to all groups, and our hypotheses were about intergroup differences rather than general tendencies, we cannot precisely determine the accuracy with which participants estimated these factors.

Second, our results are subject to several explanations. One is that participants may have predicted the various consequences of their enforcement actions. Participants may have estimated that one type of actor may be more likely than the other to retaliate in response to a particular action, which in turn may affect the cost-benefit analysis of enforcement. Another possibility is that participants have had different experiences with the two types of enforcement. Some may have never initiated a lawsuit in court or hired the services of an attorney. Others may not be active users of social media and are less familiar than others with viral campaigns. We attempted to address this problem by sampling participants from various populations.

Third, we focused only on actions initiated by the aggrieved party, and not by the state. Although our hypotheses concern only privately-initiated methods of enforcement, people expect state institutions to prevent some transgressions without being prompted to do so by individual citizens. Thus, showing reluctance to take action may not always mean that the participant prefers to let the transgression go unpunished, but may reflect an expectation for the state to take action instead. The fact that no transgression produced consistently low intentions to take action of any kind leads us to believe that this alternative explanation does not account for our results. But our research design does not allow us to reject this argument unequivocally.

To conclude, the results presented in this article suggest that focusing on the interaction between forms of enforcement, type of transgression, and the person-corporation dichotomy is a fruitful avenue for future research. Additional studies could pursue a more refined typology of transgressions and examine more closely the mechanisms responsible for the effects documented in this paper. Finally, supplementing our vignette-based methodology with archival data, or with

experimental games that will endogenize the cost of sanctioning (e.g., Hauert, Traulsen, Brandt, Nowak, & Sigmund., 2007) could improve some of the shortcomings presented above.

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Tables

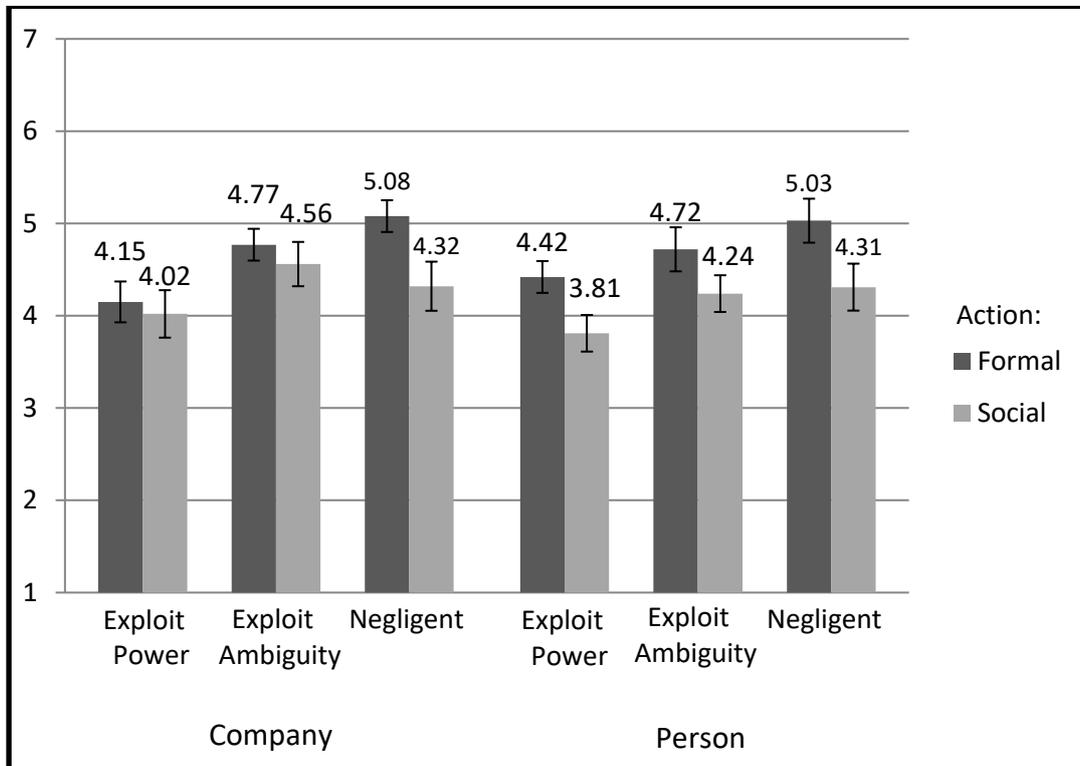
Table 1.

Mean likelihood ratings for taking formal and social actions against an individual or a corporation in Study 2. Standard deviations are in parentheses.

	Exploit Power	Exploit Ambiguity	Negligence
<u>Company</u>			
Formal Action	4.11 (1.58)	4.36 (1.43)	5.02 (1.21)
Social Action	3.75 (1.91)	4.04 (1.50)	4.44 (1.49)
<u>Person</u>			
Formal Action	4.08 (1.40)	5.17 (1.19)	5.69 (0.96)
Social Action	3.94 (1.30)	3.91 (1.33)	4.07 (1.10)

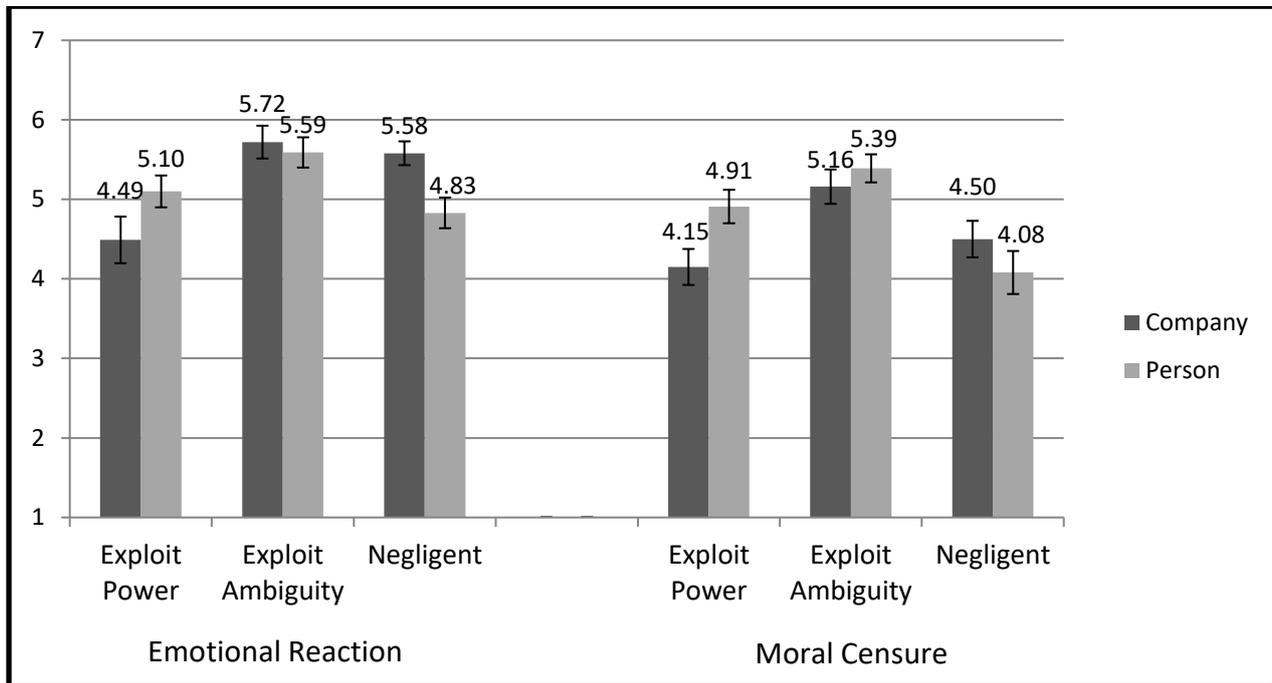
Figures

Figure 1. Mean likelihood ratings of engaging in formal and social enforcement by transgression type and transgressor type in Study 1.



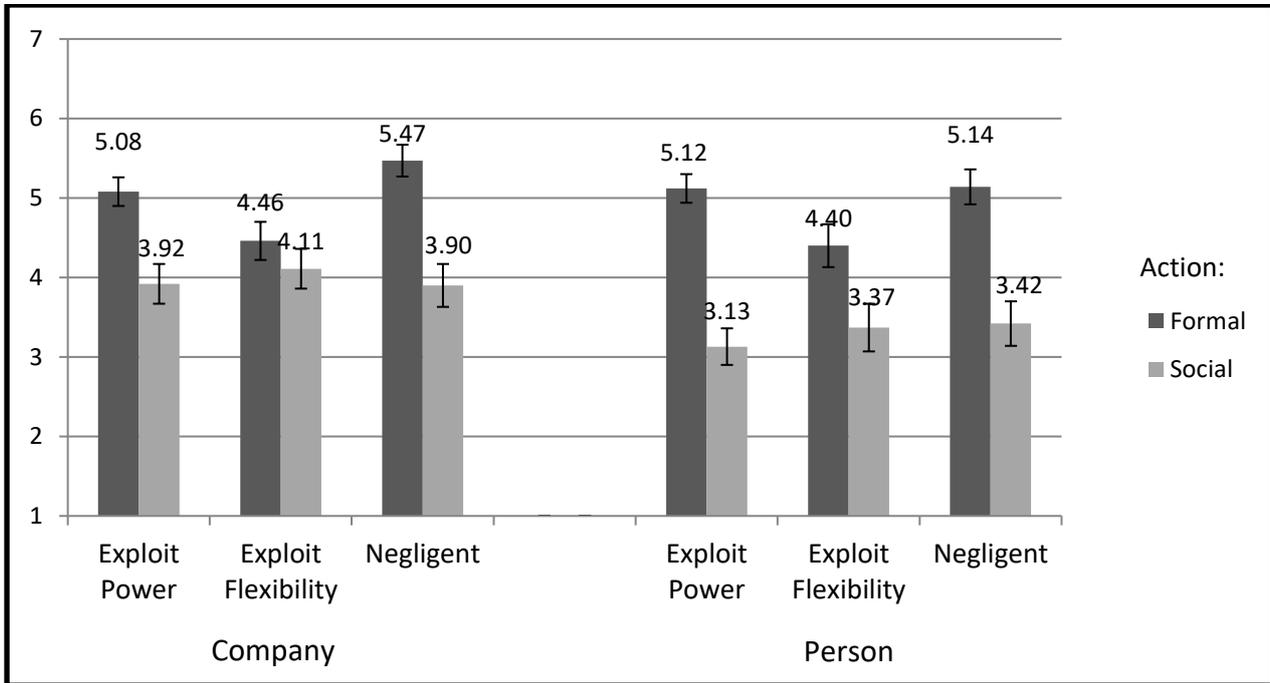
NOTE: Error bars represent ± 1 SEM.

Figure 2. Mean ratings of emotional reaction and judgment of the transgressor’s behavior in Study 1.



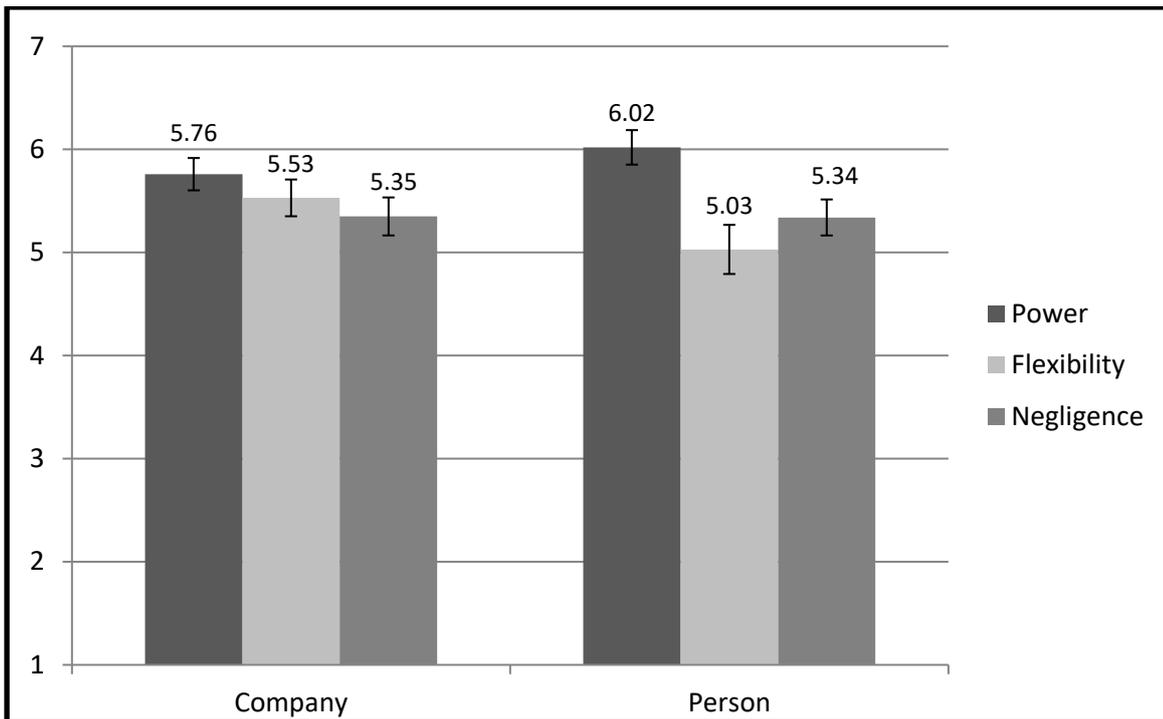
NOTE: Error bars represent ± 1 SEM.

Figure 3. Mean likelihood ratings of taking formal and social enforcement action by transgression type and transgressor type in Study 3.



NOTE: Error bars represent ± 1 SEM.

Figure 4. Mean moral judgment ratings of the transgressor's behavior in Study 3.



NOTE: Error bars represent ± 1 SEM.