

# UC Berkeley

## UC Berkeley Electronic Theses and Dissertations

### Title

The Use of Social Media by Crime Victims and Bystanders as a Critical Discourse of the Criminal Justice System and a Self-Help Justice Mechanism

### Permalink

<https://escholarship.org/uc/item/4gf1v46p>

### Author

Schwartz, Talia

### Publication Date

2019

Peer reviewed|Thesis/dissertation

The Use of Social Media by Crime Victims and Bystanders as a Critical Discourse of the  
Criminal Justice System and a Self-help Justice Mechanism

by

Talia Schwartz

A dissertation submitted as part of the  
requirements for the degree of

Doctor of the  
Science of Law

of the  
University of California, Berkeley

Committee in charge:

Professor Malcolm M. Feeley, Chair

Professor John Yoo

Professor Coye Cheshire

Fall 2019

© December 2019

Talia Schwartz

ALL RIGHTS RESERVED

## **ABSTRACT**

### **The Use of Social Media by Crime Victims and Bystanders as a Critical Discourse of the Criminal Justice System and a Self-help Justice Mechanism**

**By**

**Talia Schwartz**

**Doctor of Juridical Science**

**University of California, Berkeley**

**Professor Malcolm M. Feeley, Chair**

The rebirth of shame sanctions in cyberspace brings a new set of questions concerning the practice. This study focuses on the use of social media as a critical discourse of formal criminal justice, specifically, individuals who share on social media a post describing deviant behavior in which the alleged wrongdoer is identified and publicly shamed. Shame sanctions are amongst the most ancient forms of justice, and yet its online manifestation as ‘e-vigilantism’ calls for special attention; whereas the traditional debate on alternative sanctions is usually within the boundaries of punishment inflicted by state actors, “shaming 2.0” has taken the form of privately administered justice mechanism, operated by a crowd of non-experts in virtual settings, resulting in the privatization of justice in the border scheme of things. Being a resourceful self-help tool on the one hand and a destructive mechanism on the other, this practice maximizes free-speech to its fullest, but nonetheless threatens the rule of law with public order being pushed aside and oftentimes results in real tragedies. Indeed, turning to social media when confronted with injustices, can and should be seen as an act of self-help through which the individual claims power and questions the execution of justice exclusively by State actors. In a dearth of academic research, this study wishes to surface the described phenomenon, improve our understanding of it and empirically examine this “crowd-judging” mechanism. The study sheds light on possible reasons for e-vigilantism, that is occurring with little attention from the legal community thus far. It is expected to push the longstanding debate on shaming a step further and broaden literature on procedural justice, obedience and trust, whilst taking into account the changing nature of law in a technologically driven world.

The dissertation is composed of two main parts. part I is an empirical study that assumes correlations between perceptions of procedural justice, legitimacy and trust in formal law enforcement – and attitudes towards non-physical, online self-help. It is hypothesized that support of e-vigilantism negatively correlates with trust in formal law institutions and perceptions of procedural justice, and positively correlates with social trust. Meaning, individuals who display higher levels of trust in legal authorities, and who perceive the law and its agents as legitimate, are less likely to support an act of online shaming. It is further hypothesized that individuals who

display higher levels of social trust, meaning trust in and among their community, are more likely to support an act of online shaming due to higher sense of belonging and commitment to their community. To test these hypotheses, levels of trust, legitimacy, confidence in formal law enforcement and support of e-vigilantism are measured via a web-based survey of a sample (N~450) of Israeli social media users. Part II analyzes the main objections to shame sanction, through which a two-fold normative argument is made. First, e-vigilantism might be revenge-based, yet so are formal modern legal systems. That is to say that the main difficulty with e-shaming does not stem from the sanction's intrinsic nature "as such", but rather has to do with the way in which it is administrated and implemented. Second, be perceptions on formal law authorities the result or cause for supporting self-help, the inseparable relationship between the two is without a doubt applicable to e-vigilantism. It is argued that community-led punishments evolved into modern legal systems in which law enforcement agents are in power. When those fail in the eyes of the People – the crowd claims back power and revenge 'breaks out'.

## Table of contents

ABSTRACT .....	1
Table of contents .....	i
<b>INTRODUCTION</b> .....	1
<b><i>PART I: EMPIRICAL STUDY – FAIRNESS, TRUST AND NORMATIVE COMMITMENT TO LAW AND SUPPORT OF E-VIGILANTISM AMONG ISRAELI SOCIAL MEDIA USERS</i></b> .....	1
<b><i>VIGILANTISM vs. E-VIGILANTISM (ONLINE vs. OFFLINE COMMUNITIES)</i></b> .....	1
<b>E-vigilantism – Definition</b> .....	1
<b>E-vigilantism in literature</b> .....	4
<b>RESEARCH DESIGN AND QUESTIONS</b> .....	7
<b>LITERATURE REVIEW</b> .....	8
<b>Procedural Justice, Legitimacy and trust in institutions</b> .....	9
<b>Social Trust, community trustworthiness and solidarity</b> .....	16
<b>Additional variables: Demographics, Prior Involvement with Authorities, FIS (Facebook Intensity Scale) and Fear of Crime</b> .....	19
<b>METHODOLOGY</b> .....	21
<b>The studied community – Facebook</b> .....	21
<b>Subject population</b> .....	21
<b>Dependent Variable – supporting e-vigilantism</b> .....	22
<b>Independent Variables: Trust in law authorities, Perceptions on procedural Fairness and Normative commitment to Justice</b> .....	23
<b>Social trust / Trust in and among community</b> .....	25
<b>Control variables – Demographics</b> .....	27
<b>RESULTS</b> .....	29
<b>DISCUSSION</b> .....	42
<b><i>E-VIGILANTISM AND SHAME SANCTION IN VIEW OF PUNISHMENT THEORY</i></b> .....	44
<b>Motivations for supporting e-vigilantism</b> .....	46
<b><i>PART II: SHAME SANCTIONS’ LEGITIMACY (OR, WHAT IS REALLY WRONG WITH SHAME SANCTIONS?)</i></b> .....	49
<b>BIBLIOGRAPHY</b> .....	60
<b>APPENDICES</b> .....	66

**Appendix A – survey**..... 66  
**Appendix B – CPHS Protocol approval** ..... 67  
**Appendix C – Output Regression Models** ..... 69

## INTRODUCTION

On May 23<sup>rd</sup>, 2015, Ariel Ronis, Israel's Population Immigration and Border Authority manager, committed suicide after being accused of racism in a post that went viral on Facebook. Couple of days prior, an Ethiopian woman wrote a detailed post accusing Ronis of discrimination in providing her public services allegedly due to her skin tone.<sup>1</sup> In response, Ronis decided to take his life, not before publishing a post of his own in which he describes the devastating consequences of the accusing post. On November 2015, one of the high-profile cases symbolizing the Israeli #MeToo wave,<sup>2</sup> former Knesset member Yinon Magal resigned from the Knesset following sexual harassment allegations that went extremely viral on Social Media.<sup>3</sup> On January 2016 Israeli Police concluded investigation against Magal finding insufficient evidence, and the case never made it to court.<sup>4</sup> These cases, as many others, raised the awareness among Israeli<sup>5</sup> public and decision-makers, as to the undeniable power of social media as a tool enabling the individual to voice, while reviving 'lynching' practices in the (online) city square.<sup>6</sup>

This study focuses on the use of social media as a critical discourse of formal criminal justice, being a resourceful self-help tool on the one hand and a destructive mechanism on the other. Skimming through online shaming case-studies in Israel in recent years intuitively leads to thinking that among the motivations for this "crowd-judging" mechanism, are individual's level of trust in formal law authorities, perceptions of procedural justice and a 'sense of community trust'; a substantial amount of comments accompanying these posts, show the crowd's dissatisfactions with formal law enforcement, i.e., police, courts and prosecution. Massive bodies of research are dedicated to procedural justice, trust and its implications on obedience and self-help. 'Street justice', or vigilantism, has been repeatedly linked with confidence in and normative judgment of the justice system. Notably, it has been suggested that compliance with the law is primarily based on perceived fairness and legitimacy of a justice system. Studies further show connection between perceived legitimacy, trust, and violent self-help.

---

<sup>1</sup> The Times of Israel. Civil servant commits suicide after Facebook accusations of racism. May 24, 2015 (last visited 12/29/19) <https://www.timesofisrael.com/civil-servant-commits-suicide-after-facebook-accusations-of-racism/>

<sup>2</sup> Jpost. A year since #MeToo: Just the beginning. October 19, 2018 (last visited 12/29/19) <https://www.jpost.com/Israel-News/A-year-since-MeToo-Just-the-beginning-569789>

<sup>3</sup> Jpost. MK Yinon Magal resigns from Knesset in light of sexual harassment allegations. November 30, 2015 (last visited 12/29/19) <https://www.jpost.com/Israel-News/Politics-And-Diplomacy/MK-Yinon-Magal-resigns-from-Knesset-after-435800>

<sup>4</sup> Jpost. Police: Lack of evidence supporting allegations against former MK Magal. January 25, 2016 (last visited 12/29/19) <https://www.jpost.com/Israel-News/Politics-And-Diplomacy/Police-Lack-of-evidence-supporting-allegations-against-former-MK-Magal-442700>

<sup>5</sup> Though focusing on Israeli society, the studied behavior is a world-wide phenomenon. These are just some of the notable cases of e-vigilantism: The Boston Marathon bombing after which a Reddit community was set up in order to locate anyone acting suspicious during the attack on CCTV footage; The Vancouver riots, Trotter, D. and Schneider, C. 2012. The 2011 Vancouver riot and the role of Facebook in crowd-sourced policing. *BC Studies: The British Columbian Quarterly*. 175, pp. 57-72; the shooting on the Norwegian island of Utøya (Kaufmann M. (2015). Resilience 2.0: social media use and (self-) care during the 2011 Norway attacks. *Media, culture, and society*, 37(7), 972–987. doi:10.1177/0163443715584101.

<sup>6</sup> The prevalence of online violence among Israeli Social Media is undisputable. See a 2016 report that found there is a call for violence on social media every three minutes (in Hebrew). <https://www.davar1.co.il/40738/>



Viewing online shaming via those lances, the empirical portion of this study (part I) applies the Tylerian procedural justice model and subsequent empirical work to e-vigilantism. It is argued that similarly to physical vigilant justice, being a digital form of vigilantism, online shaming operates as a mechanism of self-help. Specifically, it is hypothesized that support of e-vigilantism negatively correlates with trust in formal law institutions and perceptions of procedural justice, and positively correlates with social trust. Meaning, individuals who display higher levels of trust in legal authorities, and who perceive the law and its agents as legitimate, are less likely to support an act of online shaming. It is further hypothesized that individuals who display higher levels of social trust, meaning trust in and among their community, are more likely to support an act of online shaming due to higher sense of belonging and commitment to the community. To test these hypotheses, self-reported levels of trust, legitimacy, confidence in formal law enforcement and support of e-vigilantism are measured via a web-based survey of a sample (N~450) of Israeli social-platforms users. Questions used to operationalize and measure trust, confidence and legitimacy are drawn from previous work in Israeli society.<sup>7</sup> The Survey measures attitude and support towards e-vigilantism using mock-Facebook posts where questions are influenced in part by prior work. Alternative factors, including fear of crime, prior involvement with authorities, levels of engagement with Social Media, demographics and socio-economic, are also tested. Part II raises a two-fold normative argument regarding e-vigilantism as a community-led revenge-based punishment. It discusses the main objections to shame sanctions in literature and their applicability to “shaming 2.0.” In a nutshell, it is argued that whereas the traditional debate on alternative sanctions is within the boundaries of punishment inflicted by state actors, e-vigilantism is privately administrated justice, operated by a crowd of non-experts in virtual settings, resulting in the privatization of justice in the border scheme of things.

---

<sup>7</sup> Rattner. A., *Legal Culture: Law and the Legal System in the Eyes of the Israeli Public*. The Shasha Center for Strategic Research, Hebrew University, Jerusalem (In Hebrew)(2009).

## ***PART I: EMPIRICAL STUDY – FAIRNESS, TRUST AND NORMATIVE COMMITMENT TO LAW AND SUPPORT OF E-VIGILANTISM AMONG ISRAELI SOCIAL MEDIA USERS***

### ***VIGILANTISM vs. E-VIGILANTISM (ONLINE vs. OFFLINE COMMUNITIES)***

#### **E-vigilantism – Definition**

In examining e-vigilantism as a case study of the procedural justice model, it is argued inter alia, that e-vigilantism acts as a mechanism of self-help and social control, correlating with levels of trust and confidence in formal law authorities and community trust. A preliminary question regards the nature, characteristics and definition of e-vigilantism, to which I now turn to. In its traditional (non-digital) sense, some of *vigilantism* most prevalent definitions are ‘a response to perceived or actual deviance’<sup>8</sup> and “the handling of a grievance by unilateral aggression”.<sup>9</sup> Definitions to vigilantism seem to include several components, which are hardly agreed upon in literature – *what is it, by who, against whom, how and why*; Vigilantism is often defined as a violent act (or threat of violence),<sup>10</sup> and yet it has been also regarded as a non-violent response.<sup>11</sup> Being self-appointed doers of justice, vigilantes are often times referred to as private citizens<sup>12</sup> though some have defined them as state agents as well.<sup>13</sup> The vigilant act can be targeted against crime offenders,<sup>14</sup> law enforcement officers<sup>15</sup> and even minority groups, in a planned<sup>16</sup> or spontaneous action.<sup>17</sup> Motivations for vigilantism also greatly vary in literature and include establishing or maintaining sociopolitical order,<sup>18</sup> imposing order in lawless realms<sup>19</sup> and punishment for alleged criminal behavior.<sup>20</sup>

---

<sup>8</sup> Johnston, L. (1996). WHAT IS VIGILANTISM? The British Journal of Criminology, 36(2), 220-236. Retrieved from [www.jstor.org/stable/23638013](http://www.jstor.org/stable/23638013).

<sup>9</sup> Black, D. Crime as social control. American Sociological Review, 48(1), 34 (1983), p. 34.

<sup>10</sup> Rosenbaum, H. Jon, Sederberg, Peter. 1974. “Vigilantism: An Analysis of Establishment Violence.” Comparative Politics 6: 541–571.

<sup>11</sup> Hine, Kelly D. “Vigilantism Revisited: An Economic Analysis of the Law of Extra-Judicial Self-Help or Why Can't Dick Shoot Henry for Stealing Jane's Truck?” American University Law Review 47, no.5 (June 1998): 1221-1255.

<sup>12</sup> Johnston, L. (1996).

<sup>13</sup> Dumsday, Travis. 2009. “On Cheering Charles Bronson: The Ethics of Vigilantism.” The Southern Journal of Philosophy 47: 49–67.; Martha K. Huggins, “Vigilantism and the State: A Look South and North,” in Huggins, Vigilantism and the State Caco Barcellos, ROTA 66: A Historia da Policia que Mata (Sao Paulo: Globo, 1991

<sup>14</sup> Brown, R. M. (1975). Strain of Violence: Historical Studies of American Violence and Vigilantism, Oxford University Press, New York.

<sup>15</sup> Rosenbaum, H., & Sederberg, P. (1974). Vigilantism: An Analysis of Establishment Violence. Comparative Politics, 6(4), 541-570. doi:10.2307/421337.

<sup>16</sup> Dumsday (2009); Johnston, L. (1996).

<sup>17</sup> Martha K. Huggins, “Vigilantism and the State: A Look South and North,” in Huggins, Vigilantism and the State Caco Barcellos, ROTA 66: A Historia da Policia que Mata (Sao Paulo); Shotland, R. and Goodstein, L. (1984) ‘The Role of Bystanders in Crime Control’ Journal of Social Issues 40(1): 9–26.

<sup>18</sup> Rosenbaum, H., & Sederberg, P. (1974). Vigilantism: An Analysis of Establishment Violence. Comparative Politics, 6(4), 541-570. doi:10.2307/421337

<sup>19</sup> Weisburd, David. (1984). Vigilantism as Rational Social Control: The Case of the Gush Emunim Settlers. Political Anthropology, 4.

<sup>20</sup> Zimring, Franklin E. 2003. The Contradictions of American Capital Punishment. New York: Oxford University Press.

Though not a new phenomenon<sup>21</sup> - vigilantism has been reborn in the online sphere. On the Internet, people often come together in what is commonly termed as ‘virtual communities’. E-vigilantism, unlike vigilantism, takes place in Virtual Communities<sup>22</sup> and Social Networking Sites.<sup>23</sup> Howard Rheingold, one of the most cited authors in the online community literature, described online communities as “social aggregations that emerge from the Net when enough people carry on public discussions long enough, with sufficient human feeling to form webs of personal relationships in cyberspace”.<sup>24</sup> Indeed, one way to distinguish between e-vigilantism and vigilantism is by looking at the differences between online and offline communication or communities, which have been heavily studied; Sproull and Faraj noted three main differences between electronic and face-to-face communities: (1) physical location becomes irrelevant in online communities, (2) a portion of participants in virtual communities are ‘invisible’, meaning, passive participants that are exposed to content but do not necessarily interact with it (3) logistical and social costs of taking part in electronic communities are significantly lower.<sup>25</sup> Hiltz and Wellman, who also compared online to offline communities, found virtual communities to be larger, more dispersed in time and space and more heterogeneous in terms of gender, ethnicity, and socioeconomic status.<sup>26</sup> Another critical difference between face-to-face and online group interaction is the lack of non-verbal information in the later, which leaves online communication

---

<sup>21</sup> on vigilante justice in Judaism and Hebrew Law, see Daat (Hebrew): <http://www.daat.ac.il/mishpat-ivri/skirot/130-2.htm>.

<sup>22</sup> Lee, F., Vogel, D., and Limayem, M. "Virtual Community Informatics: A Review and Research Agenda," *Journal of Information Technology Theory and Application* 5(1), 47-61, page 51 (2003). [A meta-analysis examining several studies on the definition of those, found virtual communities to be “cyberspaces supported by computer-based information technology, centered upon communication and interaction of participants to generate member-driven content, resulting in a relationship being built”]. For a further read on Virtual Communities and Social Media, and its characteristics, see Sproull, L., & Kiesler, S. (1991). *Connections New Ways of Working in the Networked Organization*. Cambridge, MA MIT Press [discussing how virtual communities create and enforce behavior norms]; Hiltz, S. R., & Wellman, B. (1997). Asynchronous learning networks as a virtual classroom. *Communications of the ACM*, 40, 44-49.doi10.1145/260750.260764. [discussing the component of attachments, to an extant addiction to a virtual community.]

<sup>23</sup> Starting with the Well, a pioneering online community established in 1985, hundreds of online communities and social networking sites have emerged since. One expression of virtual community is social networking sites, or Social Media (i.e., Facebook). Social networking sites are defined as “applications that enable users to connect by creating personal information profiles, inviting friends and colleagues to have access to those profiles... These personal profiles can include any type of information, including photos, video, audio files, and blogs.” See Kaplan, A. M., & Haenlein, M. Users of the world, unite! The challenges and opportunities of social media. *Business Horizons*,53(1), 59–68, p. 63 (2010). Further, Social Media sites can and should be described using two key concepts – Web 2.0 and User-Generated Content. As been explained by Kaplan & Haenlein, whereas “Web 2.0 represents the ideological and technological foundation, User Generated Content (UGC) can be seen as the sum of all ways in which people make use of Social Media.” Kaplan, A. M., & Haenlein (2010) p. 61.

<sup>24</sup> H. Rheingold. *The Virtual Community: Homesteading on the Electronic Frontier*. Reading, Massachusetts: Addison-Wesley. p. 5 (1993); Other definitions of virtual communities include “groups of people with common interests and practices that communicate regularly and for some duration in an organized way over the Internet through a common location or mechanism”. Ridings, C. M., Gefen, D., & Arinze, B., Some antecedents and effects of trust in virtual communities, *The Journal of Strategic Information Systems*, 11 No. 3-4, 271-295, 273 (2002). See also McCay-Peet and Quan-Haase, 2016 L. McCay-Peet, A. Quan-Haase A model of social media engagement: User profiles, gratifications, and experiences Why engagement matters: Cross-disciplinary perspectives of user engagement in digital media (2016), pp. 199-217

<sup>25</sup> Sproull, L., & Faraj, S. (1997). Atheism, sex, and databases: The net as a social technology. In S. Kiesler (Ed.), *Culture of the Internet* (p. 35–51).

<sup>26</sup> Hiltz, S. R., & Wellman, B. (1997). Asynchronous learning networks as a virtual classroom. *Communications of the ACM*, 40, 44-49.doi10.1145/260750.260764.

subject to much more interpretations.<sup>27</sup> Most notably, online communication allows for a ‘flat’, non-hierarchical communication with greater equality between participants/group members.<sup>28</sup> It is suggested then, that the differences between e-vigilantism and vigilantism is drawn from and based of the differences between online and offline communities/communication, resulting in a novel variation of shame sanction in the online sphere:

1. **Nature:** E-shaming, unlike shaming, is not only a punishment/sanction. Having the norm itself negotiated and determined by a crowd of non-professionals, makes e-shaming more than an ‘end-result’ but rather, an entire process.

2. **Impact:** online realm architecture changes the spread and volume of e-shaming, increasing its impact in all dimensions – by greater audience (also by strangers), in larger scale, and permanent in time.

3. **Social Meaning:** whereas shaming is yet another sanction in the crowds’ hands, e-shaming has the potential of changing social hierarchy, making powerless in power. The arguably ‘flat’ character of the internet, its accessibility and openness, gives voice to disadvantaged groups and minorities<sup>29</sup>.

As stated, this study specifically focuses on the phenomenon where individuals (crime victims or bystanders) share a post (written story) describing deviant behavior on social media, in which the alleged wrongdoer is oftentimes identified and publicly shamed. That is, differently than cyber-bullying or other online content, in which shame is inflicted as a ‘stand-alone’ violent act, lacking the component of protesting a certain behavior or regaining social order.<sup>30</sup>

The digital form of vigilantism has been termed in different ways, including Online Vigilantism,<sup>31</sup> Digilantism,<sup>32</sup> Cyber-vigilantism,<sup>33</sup> E-shaming, and Digital Vigilantism<sup>34</sup>; while these concepts slightly vary in how they define e-vigilantism, they share the belief that the studied behavior is *an*

---

<sup>27</sup> Chidambaram, Laku and Jones, Beth. 1993. "Impact of Communication Medium and Computer Support on Group Perceptions and Performance: A Comparison of Face-to-Face and Dispersed Meetings," *MIS Quarterly*, (17: 4).

<sup>28</sup> Sproull, L., & Kiesler, S. (1991). *Connections New Ways of Working in the Networked Organization*. Cambridge, MA MIT Press; Hiltz, S. R., & Wellman, B. (1997). Asynchronous learning networks as a virtual classroom. *Communications of the ACM*, 40, 44-49. doi:10.1145/260750.260764.

<sup>29</sup> Pratt, M. (2000). The Good, the Bad, and the Ambivalent: Managing Identification among Amway Distributors. *Administrative Science Quarterly*, 45(3), 456-493. doi:10.2307/2667106; see also Naming, Blaming, Shaming: Sexual Assault Victims' Perceptions of the Practice of Shaming Their Assailants on Facebook, U. Haifa L. Rev. (forthcoming, 2020) (with Anat Peleg).

<sup>30</sup> Tamar Berenblum The internet as a sphere of social control, Dissertation (on file with author) (The Hebrew University of Jerusalem, 2016) [see distinction between e-shaming and Bullying, p.95]

<sup>31</sup> Wall, D.S. and Williams, M. (2007). Policing diversity in the digital age: Maintaining order in virtual communities. *Criminology and Criminal Justice*, 7, 391-415.

<sup>32</sup> Prins, C. (2010). The Online Dimension of Recognized Victim’s Rights. *Computer Law & Security Review*, 26, 219-221.

<sup>33</sup> Marx, G.T. (2013). The Public as Partner? Technology Can Make Us Auxiliaries as Well as Vigilantes. *Security & Privacy*, 11(5), 56-61. DOI: 10.1109/MSP.2013.126

<sup>34</sup> Trottier, D. *Philos. Technol.* (2017) 30: 55. <https://doi.org/10.1007/s13347-016-0216-4> ; Trottier, D. (2014). Big Data Ambivalence: Visions and Risks in Practice, in Hand, M. Hillyard, S.(Eds.), *Big Data? Qualitative Approaches to Digital Research*, *Studies in Qualitative Methodology*, 13, 51 –72. DOI: 10.1108/S1042-319220140000013004

*online expression<sup>35</sup> of moral outrage among civilians, resulting from a deviant behavior, which they seek to correct through privately administrated justice.*

Trottier defines Digital Vigilantism as “a process where citizens are collectively offended by other citizen activity, and respond through coordinated retaliation on digital media, including mobile devices and social media platforms”,<sup>36</sup> which oftentimes includes naming and shaming while posting personal information of the suspects, online. In her dissertation on The Internet as a Sphere of Social Control, Berenblum nicely defines e-shaming as “a public social process conducted online, with the intention of reaffirming social norms by expressing disapproval and communicating shame about deviant behavior through the online publication of information regarding the event, alongside a condemning interpretation by those exposed to it.”<sup>37</sup>

When addressing the above components (*what, by who, against whom, how and why*), the studied behavior – E-vigilantism – may be defined in most cases<sup>38</sup> as **a non-physical response to deviance, by private citizens, against alleged crime offenders in a spontaneous online act, for multiple purpose, including regaining public order, imposing order in lawless realms and punishing the offender.**

### **E-vigilantism in literature**

Much has been said about the historical, political, and social reasoning for shaming and vigilante justice.<sup>39</sup> E-vigilantism however, has been studied somewhat less. Online shame has been discussed in the contexts of free speech and privacy<sup>40</sup> and the categorization of shaming tweets has been also offered.<sup>41</sup> Specifically in the civil context, online shaming has been studied as a

---

<sup>35</sup> On the expressive role of punishment and shaming, see chapter ‘E-VIGILANTISM AND SHAME SANCTION IN VIEW OF PUNISHMENT THEOR’.

<sup>36</sup> Trottier, D. (2014), p. 60.

<sup>37</sup> Tamar Berenblum, The internet as a sphere of social control, Dissertation (on file with author) (The Hebrew University of Jerusalem, 2016).

<sup>38</sup> I limit my definition, as there may also be additional cases for example, e-vigilantism case by public figure (non-private) and/or against law enforcement.

<sup>39</sup> Brown Richard Maxwell. *Strain of Violence: Historical Studies of American Violence and Vigilantism*. New York: Oxford University Press. 1975 ; Lewis, H. B. (1971). *Shame and guilt in neurosis*. New York, NY: International Universities Press; Rosenbaum, H., & Sederberg, P. (1974). *Vigilantism: An Analysis of Establishment Violence*. *Comparative Politics*, 6(4), 541-570. doi:10.2307/421337; Scheff, T. (2003). *Shame in Self and Society*. *Symbolic Interaction*, 26(2), 239-262. doi:10.1525/si.2003.26.2.239; Johnston, L. (1996). *WHAT IS VIGILANTISM?* *The British Journal of Criminology*, 36(2), 220-236. Retrieved from [www.jstor.org/stable/23638013](http://www.jstor.org/stable/23638013); Little, C. B., and Sheffield, C. (1983). *Frontiers and criminal justice: English private prosecution societies and American vigilantism in the eighteenth and nineteenth centuries*. *Am. Sociol. Rev.* 48: 796–808; Rosenbaum, H., & Sederberg, P. (1974). *Vigilantism: An Analysis of Establishment Violence*. *Comparative Politics*, 6(4), 541-570. doi:10.2307/421337 [describing Vigilantism as legal depending on circumstances.]

<sup>40</sup> Cheung, A.S. *Revisiting Privacy and Dignity: Online Shaming in the Global E-Village*. *Laws* 2014, 3, 301-326; Petley, Julian, ed. *Media and Public Shaming: Drawing the Boundaries of Disclosure* (London: I.B. Tauris & Co., 2013); Solove, Daniel J. *The Future of Reputation: Gossip, Rumor, and Privacy on the Internet* (Yale University Press, 2007)

<sup>41</sup> Rajesh Basak, Niloy Ganguly, Shamik Sural, and Soumya K. Ghosh. 2016. *Look Before You Shame: A Study on Shaming Activities on Twitter*. In *Proceedings of the 25th International Conference Companion on World Wide Web (WWW '16 Companion)*, 11–12. DOI:<https://doi.org/10.1145/2872518.2889414>

resistance tool against corporations,<sup>42</sup> organizations,<sup>43</sup> and against trademark bullies.<sup>44</sup> Further work in the context of reputation theory was done by Strahilevitz, suggesting that to an extent reputation tracking tools (i.e., scoring systems and social media profiles), might displace law in certain sectors. Strahilevitz discusses Internet-based evaluation sites (“feedback sites”) as an alternative to litigation and formal adjudication. Upon weighting the objectives of each mechanism, and while acknowledging that his proposal is quite radical, Strahilevitz concludes that a portion of cases should be “steered out of court.”<sup>45</sup> Put simply, his argument is that these platforms set “a megaphone for sharing the story with others” and proposes the circumstances under which cases should be steered out of court due to the existence of these online self-help mechanisms.<sup>46</sup> Indeed, consumer tactics involving online shaming are recognized and supported as an alternative self-help system in the commercial context.<sup>47</sup> More in the context of human rights,

---

<sup>42</sup> Jennifer Jacquet, *Is Shame Necessary?: New Uses for an Old Tool* (Pantheon books, 2015); Gans, Joshua S. and Goldfarb, Avi and Lederman, Mara, *Exit, Tweets, and Loyalty* (March 15, 2017). Rotman School of Management Working Paper No. 2889388. <http://dx.doi.org/10.2139/ssrn.2889388>

<sup>43</sup> Martin, Brian. Online onslaught: Internet-based methods for attacking and defending citizens’ organizations. *First Monday*, [S.l.], dec. 2012. ISSN 13960466. Available at: <<http://firstmonday.org/ojs/index.php/fm/article/view/4032/3379>>. Date accessed: 31 Oct. 2015. doi:10.5210/fm.v17i12.4032. [Suggesting that online attacks on organizations are a new category of cyberbullying. The paper analyzes the SVAN group (Stop the Australian Vaccination Network) as a case study and identifies seven online methods for fighting against organization, some of which involved shaming or ridiculing members of the group.]

<sup>44</sup> Grinvald, Leah Chan, *Shaming Trademark Bullies*. *Wisconsin Law Review*, Vol. 2011, No. 3, 2011; Saint Louis U. Legal Studies Research Paper No. 2011-01. Available at SSRN: <https://ssrn.com/abstract=1739008> or <http://dx.doi.org/10.2139/ssrn.1739008>

<sup>45</sup> Strahilevitz, Lior. Pseudonymous Litigation. *U. Chi. L. Rev.* 77, 1239, 1256 (2010) [“complaints by parties who have suffered limited injuries, who raise non-novel legal issues, whose credibility and access to information networks is particularly strong, who can articulate their complaints eloquently, and whose claims involve relatively unimportant factual controversies, should be steered out of court. So too should complaints against parties whose reputations are well monitored by informal mechanisms for airing grievances.”]; For a broader read on reputation theory in virtual context see *THE REPUTATION SOCIETY: How Online Opinions Are Reshaping the Offline World* (ed. Hassan Masum, Mark Tovey, Craig Newmark)(The MIT Press, Cambridge 2011)

<sup>46</sup> Strahilevitz, Lior (2010) p. 1248 [Where author compares the objectives of litigation versus those of feedback sites, weighing the pros and cons of each and concluding that “Complaints by parties who have suffered limited injuries, who raise non-novel legal issues, whose credibility and access to information networks is particularly strong, who can articulate their complaints eloquently, and whose claims involve relatively unimportant factual controversies, should be steered out of court. So too should complaints against parties whose reputations are well monitored by informal mechanisms for airing grievances.” Page 1256] Strahilevitz, Lior. *Reputation Nation: Law in an Era of Ubiquitous Personal Information*. *Northwestern University Law Review* 102,1667 (2008); Lior Strahilevitz, “Less Regulation, More Reputation,” in *The Reputation Society: How Online Opinions Are Reshaping the Offline World*, Hassan Masum & Mark Tovey eds. (MIT Press, 2011). [Somewhat of a similar opinion has been argued by Jonathan Klinger, an Israeli expert on law and technology, arguing that shaming per se constitutes a social mechanism that enables setting social norms using fewer formal resources such as traditional justice system. See Jonathan Klinger 10.28.2015 ‘shaming is good’, at: <https://2jk.org/praxis/?p=5489>].

<sup>47</sup> Gans, Joshua S. and Goldfarb, Avi and Lederman, Mara, *Exit, Tweets, and Loyalty* (March 15, 2017). Rotman School of Management Working Paper No. 2889388. <http://dx.doi.org/10.2139/ssrn.2889388>; Also see Whitman, n.4, at 1066 [acknowledging the effectiveness of commercial shaming in modern times]; For a critical read see Martin, Brian. Online onslaught: Internet-based methods for attacking and defending citizens’ organizations. *First Monday*, [S.l.], dec. 2012. <http://firstmonday.org/ojs/index.php/fm/article/view/4032/3379> (Last accessed May 9, 2016) [the paper identifies the online methods in which the SVAN group (‘Stop the Australian Vaccination Network’) fought against AVN (‘The Australian Vaccination Network’), some of which involved shaming or ridiculing members of the group. Noting that cyberbullying and Internet vigilantism focus on attacks on individuals, the author nonetheless suggests that attacking the creditability of organization online should be defined as a new category of cyberbullying.]

some have been written on the dignitary harms of speech in cyberspace<sup>48</sup> and Ronson, in his notable book, elaborates on the severe consequences of personal online shaming.<sup>49</sup> Online shaming and criminal law have been also studied to some degree, in the narrow context of sexual-behavior cyberbullying<sup>50</sup> and revenge porn.<sup>51</sup>

A theoretical framework most relevant to our topic, was suggested by Trottier, in terming ‘Crowdsourcing Policing’; Trottier described user-led monitoring of citizens online as a form of crowdsourced surveillance. Similarly, to what is argued here, Trottier theorized this crowdsourced process as one where non-professionals individuals engage in ‘voluntary’ collaborative projects, performing activities that would otherwise be reserved only to skilled few.<sup>52</sup>

---

<sup>48</sup> Brian Leiter, *Cleaning Cyber-Cesspools: Google and Free Speech*, in Saul Levmore and Martha C. Nussbaum, eds, *The Offensive Internet: Speech, Privacy, and Reputation* 4 (Harvard forthcoming 2010).

<sup>49</sup> Jon Ronson. *So you've been publicly shamed* (2015).

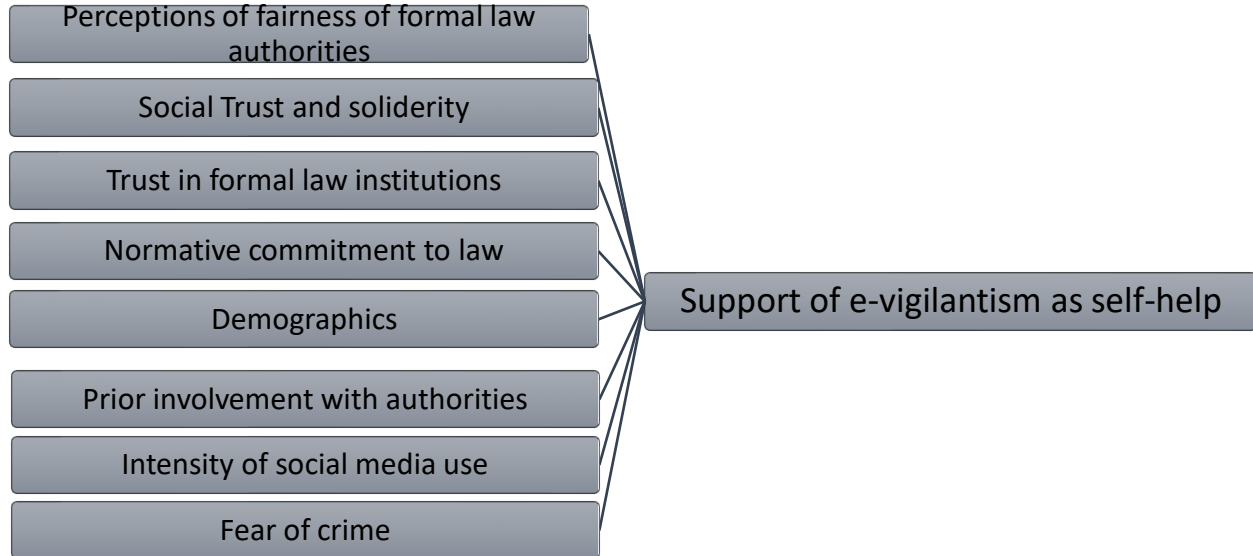
<sup>50</sup> Poole, Emily. *Hey Girls, Did You Know? Slut-Shaming on the Internet Needs to Stop*, *University of San Francisco Law Review*, 48 (1), Article 7 (2013); WEBB, Lewis Mark. *Shame transfigured: Slut-shaming from Rome to cyberspace*. *First Monday*, [S.I.], apr. 2015. Available at: <http://firstmonday.org/ojs/index.php/fm/article/view/5464/4419>

<sup>51</sup> Citron, Danielle Keats and Franks, Mary Anne, *Criminalizing Revenge Porn* (May 19, 2014). *49 Wake Forest Law Review*, 345 (2014).

<sup>52</sup> Trottier D. *Police and user-led investigations on social media*. *Journal of Law, Information & Science* 23(1): 75-96 (2014) [describing this bottom-up, user-led crowdsourced policing and suggesting that sites such as Facebook are effective platforms for citizens to persecute each other.]

## RESEARCH DESIGN AND QUESTIONS

This study tests the hypotheses that perceptions of procedural justice, legitimacy and trust (social and institutional) – correlates with attitudes towards non-physical violent self-help, e-vigilantism. Aside from those, other variables include age, ethnicity, education, socio-economic statuses, deterrence index (prior involvement with authorities), religion, fear of crime and intensity of social media use.



The study seeks to answer the following questions: What are levels of trust and confidence in formal law authorities in the studied population (adult Israeli social media users)? Does trust in formal law authorities correlates with support for e-vigilantism? What are perceptions of procedural justice and legitimacy towards formal law authorities among adult Israeli social media users? Does those correlate with support for e-vigilantism? What are levels of normative commitment to formal justice in the studied population (willingness to law into one's hands) and do those correlate with support for e-vigilantism? What are levels of social trust (community trustworthiness) in the studied population and do these correlate with support for e-vigilantism?

It is hypothesized that:

*H1: Trust in legal authorities (institutional trust) negatively correlates with support for e-vigilantism*

*H2: Perceptions of fairness (procedural justice and legitimacy) negatively correlates with support for e-vigilantism*

*H3: Normative commitment to justice negatively correlates with support for e-vigilantism*

*H4: Social trust (trustworthiness in community) positively correlates with support for e-vigilantism*



## LITERATURE REVIEW

This study is located at the intersection of the rule of law, legitimacy, self-help and virtual communities. It differs from the few other empirical studies done in this field for two main reasons; first, this study examines a specific kind of non-physical violent self-help, e-vigilantism (or otherwise addressed here as the use of social media by crime victims and the broader community as an alternative discourse). In doing so, this study is up to date with the current, most relevant form of life, where societies are organized and function as virtual communities. Unique characteristics of virtual communities are addressed, as involvement with social media and perceptions of social networks.



The concept of vigilantism as a mechanism competing against State’s exclusive powers has been heavily studied by political-science scholars<sup>53</sup> and criminologists, with a special focus from studies in the field of legitimacy, obedience and trust. Recently, Social Media’s impact on society as a whole and means of empowering the individual, has been also gaining much attention from technoeconomics and sociologists<sup>54</sup>. Nonetheless, the intersection of social media literature and law – and more specifically e-vigilantism – has been studied only by few<sup>55</sup>; This study wishes to help

---

<sup>53</sup> In its essence, vigilantism conveys a moral statement by which citizens challenge the state’s legitimacy and call for reconsidering the ‘social contract’ and the state’s obligation to maintain social order. Thus, though not discussed in the context of this study, an important aspect of vigilantism is connected to questions on sovereignty of law (See Lenz, Timothy (1988) “Republican Virtue and the American Vigilante,” 11*Legal StudiesForum*117; Rosenbaum, H. Jon, & C. Peter Sederberg (1974) *Vigilantism: An Analysis of Establishment Violence*. *Comparative Politics*, 6(4), 541-570. doi:10.2307/421337).

<sup>54</sup> Referring broadly to scholars examining social and economic impacts of emerging technologies such as Clay Shirky, Zeynep Tufekci, Manuel Castells.

<sup>55</sup> In here I refer specifically to studies looking into social media’s ‘judicial’ or consumer protection qualities, but also scholars that specifically looked e-vigilantism as further discussed; Naming, Blaming, Shaming: Sexual Assault Victims' Perceptions of the Practice of Shaming Their Assailants on Facebook, U. Haifa L. Rev. (forthcoming, 2020) (with Anat Peleg); Tamar Berenblum *The internet as a sphere of social control*, Dissertation (on file with author) (The Hebrew University of Jerusalem, 2016); Strahilevitz Lior (2010); Joshua et al. (2015).

fill this gap exactly, thereby defining the legal functioning of information and communication technologies.

Self-help mechanisms, vigilantism, or ‘street justice’, have been specifically linked with confidence in law authorities and normative judgment of formal justice system. Studies repeatedly show connection between perceived legitimacy and violent self-help, and citizens’ support for vigilantism has been found related to distrust in the police and law authorities.<sup>56</sup> Seminal in that regard is Black’s work on crime as social control, pointing to the interaction between the state’s absence and the distribution of violence.<sup>57</sup> Self-help mechanisms, vigilantism or ‘street justice’ have been repeatedly linked with confidence and legitimacy towards law authorities within the realm of the rule of law. Vigilantism has been recognized as an extra-legal form of crime control in many studies, noting that vigilantes often act as ‘control agents’ for the larger communities in which they live.<sup>58</sup>

### **Procedural Justice, Legitimacy and trust in institutions**

It is argued inter alia, that similarly to physical vigilant justice, e-vigilantism, being a digital form of vigilantism, operates a mechanism of self-help. Viewing e-vigilantism via the lances of compliance and procedural justice, the proposed study traces the Tylerian procedural justice model and specifically Justice Tankebe empirical work on vigilantism and the rule of law in a suburb of Ghana.<sup>59</sup>

The dynamics between compliance and trust in formal law authorities have been heavily studied. Criminologist, physiologist, sociologist and legal scholars all pointed out the need to address the considerations that influence citizens’ attitudes and behavior towards law and legal authorities.

---

<sup>56</sup> Zizumbo-Colunga, Community, Authorities, and Support for Vigilantism: Experimental Evidence. *D. Polit Behav* 39(4) (2017) [Showing a positive association between distrust in law enforcement and citizens’ support for vigilantism, further reinforced by those who trust their community]; Bilz, J. K. (2007). The puzzle of delegated revenge. *Boston University Law Review*, 87, 1059 [theorizing that crime victims’ willingness to delegate vengeance to the state correlates with normative evaluations of the criminal justice system]; Jackson, J., Huq, H., Bradford, B. & Tyler, T.R. Monopolizing force?: Police legitimacy and public attitudes toward the acceptability of violence. *Psychology, Public Policy and Law* (2013).

<sup>57</sup> Black, D. Crime as social control. *American Sociological Review*, 48(1), 34 (1983) [suggesting that what western societies categorizes as crime is a yet a different form of previously self-help conflict resolution and predicting an uneven distribution of violence as social control correlating to the varying availability of legal remedies and unresolved social grievances].

<sup>58</sup> Weisburd D., Vigilantism as community social control: Developing a quantitative criminological model, *Journal of Quantitative Criminology* 4(2), 137 (1988) [where he discusses the role of the vigilante as an agent of community social control and develop a social control model for explaining vigilante behavior in the West Bank region]; See also Tamar Berenblum The internet as a sphere of social control, Dissertation (on file with author) (The Hebrew University of Jerusalem, 2016).

<sup>59</sup> Tankebe, Justice. Self-Help, Policing, and Procedural Justice: Ghanaian Vigilantism and the Rule of Law. *Law & Society Review*, 43: 245–270 (2009) [Drawing on survey data of 374 residence subjects about policing and physical vigilantism in the Ghanaian city of Accra, Tankebe studied the relation between perceived procedural justice and violent self-help. Using the Tylerian procedural justice perspective, Tankebe showed that police (dis)trustworthiness, along with age and education, were the most significant predictors of support for vigilante self-help. Though found to have an impact on police trustworthiness – thus a mitigating effect – procedural justice as a stand-alone (police effectiveness and police corruption) were not statistically significant predictors of vigilante support. In his study, Tankebe used a 5 scale Likert-type measurement scale to measure both procedural justice and Trustworthiness. For example, the procedural justice measurement (quality of Treatment) included statements such as ‘The police treats everyone with respect’. Quality of Decision-making included items such as ‘The Ghana police always act within the law’. Tankebe’s trustworthiness measurement included statements such as ‘The Ghana police are trustworthy’.]

Specifically, a substantial body of research is dedicated to procedural justice, and its implications on obedience.

The conceptualization of procedural justice is attributed to Thibaut and Walker, who showed that people were more satisfied with their trials in an adversary procedure, compared with an inquisitorial, regardless of the outcome.<sup>60</sup> The procedural justice model has been developed in numerous studies since.<sup>61</sup> Most notably, Tyler studies reinforced the notion that the quality of the criminal justice process and behavior of its agents is judged distinctively from the outcome of the legal decision.

Tyler model holds that citizens' perceptions of justice and compliance with the law are primarily based on their perceived fairness and quality of legal process, which translates into legitimacy of and towards the external agent; Tyler's model relates to both distributive and procedural dimensions and includes three components – fairness, equality and effectiveness.<sup>62</sup> It suggests that citizens' tendency to comply, and to an extent identify<sup>63</sup>, with the law, is mitigated by legitimacy, which is defined by perception of the system's fairness, including inter alia, the perceived quality of decision-making and treatment.<sup>64</sup>

The importance of legitimacy can be traced to the Durkheimian school of thought and in extensive short, it suggests that compliance achieved by the imposition of formal sanctions is costly and that social order can be best guaranteed by gaining inter-support driven from the legitimacy of the

---

<sup>60</sup> Hibaut, J. & Walker, L. Procedural justice: A psychological analysis. Hillsdale, NJ: Erlbaum (1975); Hibaut, J. & Walker, L., A Theory of Procedure, 66 Calif. L. Rev. 541 (1978).

<sup>61</sup> Lind, E. A. & Tyler, T. R. The social psychology of procedural justice. New York: Plenum Press (1988); Sparks, R. and Bottoms, A.E. Legitimacy and Order in Prisons. The British Journal of Sociology 46(1) (1996).; Paternoster, R., Brame, R., Bachman, R., & Sherman, L. W. Do fair procedures matter? The effect of procedural justice on spouse assault. Law & Society Review, 31(1), 163 (1997); Tyler, T. R. and Huo, Y. J. Trust in the Law: Encouraging Public Cooperation with the Police and Courts. New York: Russell Sage Foundation (2002).

<sup>62</sup> In Tyler's model, fairness seeks to answer 'how fair was the authority in its decision-making process'; Equality can be described as the distributive justice component concerning the way the authority's resources are distributed and whether these are distributed equally. Lastly, effectiveness as an 'outcome' variable examines whether the authority is effectively controlling crime.

<sup>63</sup> Noting that while some studies find people's moral values shape their reactions to authorities and rules, other indicate a reverse correlation, meaning, that people follow rules that are in line with their moral values. See Darley JM, Tyler TR, Bilz K. Enacting justice: the interplay of individual and institutional perspectives. In The Sage Handbook of Social Psychology, ed. MA Hogg, J Cooper, pp. 458. London: Sage (2003), and Sunshine J, Tyler TR. Moral solidarity, identification with the community, and the importance of procedural justice: the police as prototypical representatives of a group's moral values. Soc. Psychol. Q. 66:153 (2003). Compare with Robinson, Paul H. and Darley, John M. Justice, Liability, and Blame: Community Views and the Criminal Law. Boulder, CO: Westview (1995).

<sup>64</sup> Tyler, Tom R. Why People Obey the Law. New Haven: Yale university Press (1990); Sunshine, Jason, & Tom R. Tyler. The Role of Procedural Justice and Legitimacy in Shaping Public Support for Policing 37 Law & Society Rev 513 (2003). [using a sample of registered voters in New York City who returned a mail questionnaire in the spring and summer months of 2001 (N = 586), Sunshine and Tyler's standardized regression coefficient between perceived police legitimacy and cooperation was statistically significant ( $\beta = .30$ ), controlling for instrumental factors (i.e., distributive Justice) and demographic variables; when addressing the three components of the model, fairness seeks to answer 'how fair was the authority in its decision-making process'; Equality can be described as the distributive justice component concerning the manner in which the authority's resources are distributed. Lastly, effectiveness as an 'outcome' variable examined whether the authority is effective in controlling crime]. See also Tyler, T. R., & Huo, Y. J. Trust in the Law: Encouraging Public Cooperation With the Police and the Courts. New York: Russell Sage Foundation (2002).

governing authority.<sup>65</sup> Indeed, sometimes termed as ‘motive-based trust’ approach, research on the procedural justice model suggest that “compliance with the law is best secured not by mere threat of force, but by fostering beliefs in the fairness of the legal systems and in the legitimacy of legal actors.”<sup>66</sup> This normative-based approach that sees people as moral beings concerned with the fairness and trustworthiness of legal authorities resonates with sociolegal scholars who view law not merely as a body of codes or a mechanism to settle disputes, but as an institute that produces cultural and social meaning for individuals in society.<sup>67</sup>

Legitimacy has been found to predict crime, obedience and public cooperation with law enforcement<sup>68</sup> and to explain reduced violence between police and citizens.<sup>69</sup> Legitimacy and trust in institutions (or ‘political trust’)<sup>70</sup> go hand in hand. Trying to explain the two in terms of a casual, or linear relations, where one factor explains the other, would clearly be too simplistic. Instead, the dynamics between the two can be seen as constant, dual, ongoing impact of one factor on the other and vice-versa. Public’s trust in state institutions is has been recognized as a critical factor in establishing and maintaining a democratic society.<sup>71</sup> Specifically within procedural justice

---

<sup>65</sup> See Hoffman M. Moral internalization. *Adv. Exp. Soc. Psychol* (1977) [Discussing internalized obligations, explaining that “The legacy of both Sigmund Freud and Emile Durkheim is the agreement among social scientists that most people do not go through life viewing society’s moral norms as external, coercively imposed pressures to which they must submit. Though the norms are initially external to the individual and often in conflict with his desires, the norms eventually become part of his internal motive system and guide his behavior even in the absence of external authority” (p. 85).] See also Tyler, Tom R. *Why People Obey the Law*. New Haven: Yale university Press (1990) [distinguishing between two types of internalized obligations - legitimacy vs. personal morality. The first, discussed in length in this paper, deals with compliance based on sense of obligation towards an external authority, whereas the latter describes a sense of voluntary compliance built upon one's own, inter perceptions of 'right or wrong'.]; See also David Smith (2007:30) [suggesting that social order depends on the widespread belief that the authorities and their political and legal framework are legitimate.]

<sup>66</sup> Papachristos, Andrew V. and Meares, Tracey L. and Fagan, Jeffrey, *Why Do Criminals Obey the Law? The Influence of Legitimacy and Social Networks on Active Gun Offenders* (January 12, 2009). Yale Law & Economics Research Paper No. 373; Columbia Public Law Research Paper No. 09-199. Available at SSRN: <https://ssrn.com/abstract=1326631> [examining the procedural justice and legitimacy model among crime offenders; in a survey of active offenders called the Chicago Gun Project (CGP) found that even among this population, which is characterized with negative opinions of the law and legal authority - there is greater compliance among those who perceive the law and its agents as legitimate.]

<sup>67</sup> Jackson, J., Bradford, B., Hough, M., Myhill, A., Quinton, P., & Tyler, T. R. Why do people comply with the law? Legitimacy and the influence of legal institutions. *British Journal of Criminology*, 52, 1051-1071 (2012).

<sup>68</sup> Tom R. Tyler, J. Fagan. Legitimacy and Cooperation: Why Do People Help the Police Fight Crime in Their Communities? *6 Ohio State Journal of Criminal Law* 231-275 (2008).

<sup>69</sup> D. MASTROFSKI, STEPHEN & Reisig, Michael & McCluskey, John. Police disrespect toward the public: An encounter-based analysis. *Criminology*. 40. 519 – 552 (2002)

<sup>70</sup> Here, ‘trust in institutions’ represents general self-reported levels of trust towards five institutions – the Israeli police; The Israeli courts; The Israeli supreme court; The public prosecution (“Praklitut”) and the Israeli legislature (“Knesset”). See also methodology section. It should be noted, that there is a broad discussion on the mere definition of political trust that goes beyond the scope of this work. For an initial read see Hardin, R. (2001). *Conceptions and Explanations of Trust*. In K. S. Cook (Ed.), *Trust in Society* (pp. 3–39). Russell Sage Foundation Publications.

<sup>71</sup> Crozier, M., Huntington, S., & Watanuki, J. (1975). *The crisis of democracy*. Report on the governability of democracies to the Trilateral Commission. New York: New York University Press; Grimes, M. (2016). *Procedural fairness and political trust*. In S. Zmerli & T. W. G. van der Meer (Eds.), *Handbook on political trust*. Chelton, U.K.: Edward Elgar Publishing; Newton, K. (2001). *Trust, Social Capital, Civil Society, and Democracy*. *International Political Science Review*, 22(2), 201–214; Warren, M. (Ed.). (1999). *Democracy and Trust*. Cambridge: Cambridge University Press; Joseph Nye, Philip Zelikow, and David King. *Why People Don’t Trust Government*. Cambridge, MA: Harvard University Press, 1997; See also writing specific to the Israeli society, Mizrahi, Shlomo & Vigoda-Gadot, Eran & Cohen, Nissim. (2010). *Trust, Participation and Performance*. *Public Management Review*. 12. 99-

literature, trust in the criminal justice system was found a predictor for crime and has been shown to impact perceptions of legitimacy, lack of cooperation with the authorities and violent self-help behavior.<sup>72</sup>

### **Violence/self-help: Procedural justice, legitimacy and trust' impact on attitudes towards Self-Help**

While the further connection between procedural justice and self-help has been empirically addressed, to the best of my knowledge, no study has been conducted in the narrow aspect of self-help in its online variation. Studies do show potential relation between State legitimacy and nonlegitimate self-help or private violence.<sup>73</sup> Seminal in that regard is Black's work on crime as social control, pointing to the interaction between the State's absence and distribution of violence; Black suggested that what the modern state categorizes as crime is often the moralistic pursuit of justice or otherwise a form of conflict resolution.<sup>74</sup> Black thus predicted an uneven distribution of violence correlating with the availability of legal remedies. Somewhat similarly, Bilz suggested that crime victims' inclination to delegate vengeance to State actors, correlates with their perceptions of the criminal justice system. Notably, Bliz's theory accounts for the State's (lack of) legitimacy as one of the cases where self-help is preferred over state punishment.<sup>75</sup> Further examining the link between legitimacy and attitudes towards private violence, Tyler et al. found legitimacy as increasing "the belief that it is morally unacceptable to use violence to protect oneself, violence to take revenge and resolve disputes, and violence to achieve certain political objectives". In other words, the study showed that legitimacy towards formal law authorities, induces the notion that official law enforcement (and specifically the police) have a just monopoly over violence in society.<sup>76</sup>

---

126; and for a read on the global aspects of the 'crisis of democracy' see Van der Meer, T. (2017, January 25). Political Trust and the "Crisis of Democracy". Oxford Research Encyclopedia of Politics. Ed. Retrieved 10 Mar. 2019, from <http://oxfordre.com/politics/view/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-77>.

<sup>72</sup> Tyler, T. R. Public trust and confidence in legal authorities: What do majority and minority group members want from the law and legal institutions? *Behavioral Sciences and the Law* 19: 215–35 (2001); Tom R. Tyler, J. Fagan. Legitimacy And Cooperation: Why Do People Help the Police Fight Crime in Their Communities? *6 Ohio State Journal of Criminal Law* 231-275 (2008); Mike Hough, Jonathan Jackson, Ben Bradford, Andy Myhill, Paul Quinton; Procedural Justice, Trust, and Institutional Legitimacy, *Policing: A Journal of Policy and Practice*, 4 (3), 203–210 (2010); Hough, Mike & Jackson, Jonathan & Bradford, Ben. Legitimacy, Trust, And Compliance: An Empirical Test Of Procedural Justice Theory Using The European Social Survey. (2013).

<sup>73</sup> The 'self-help' narrative in its broad sense entails a story about the origins of law and the State. For a read see James Q. Whitman. *At the Origins of Law and the State: Supervision of Violence, Mutilation of Bodies, or Setting of Prices?* 71 *Chi. Kent L. Rev.* 41 (1995) [Footnotes 3-11 and accompany text noting that even in his critique of the self-help model, Whitman admits it is not completely wrong; According to the model, there are four stages in the early development of law and the state. Stage one is the stage of the state of nature, characterized with ordered vengeance or vendetta issued by individuals upon injury, perusing "an eye for an eye" justice. Stage two, in which the early state emerges, the state does not attempt to prevent violence, rather, to supervise the existing system of vengeance. Only in stage three, the early state' monopolizes the legitimate use of violence' and begins to function as enforcer on behalf of injured clans. Lastly, in stage four, the state eliminates private forms of violence, while establishing "a system of 'compositions,' substituting money damages for talionic vengeance." P. 42.]

<sup>74</sup> Black, D. Crime as social control. *American Sociological Review*, 48(1), 34 (1983).

<sup>75</sup> Kenworthy Bilz, *The Puzzle of Delegated Revenge*, 87 *BU L Rev* 1059 (2007) [positing that individuals prefer that the state punish wrongdoers, over vigilantism or other forms of self-help, given that a state's punishment restores the victim's social status more than self-help can].

<sup>76</sup> Jackson, Jonathan, Huq, Aziz Z., Bradford, Ben and Tyler, Tom R. *Monopolizing force?: police legitimacy and public attitudes towards the acceptability of violence. Psychology, public policy and law* (2013); See also Godoy, A. S. *Popular Injustice: Violence, Community, and Law in Latin America*. Stanford University Press (2006). [hypothesizing that anti-criminal collective violence emerge as a communitarian attempt to regain a sense of

The main study that this work adopts from is of Justice Tankebe.<sup>77</sup> Drawing on survey data of 374 residence about policing and vigilantism in the Ghanaian city of Accra, Tankebe studied the relation between perceived procedural justice and violent self-help. Tankebe showed that low levels of perceived procedural injustice increase public support in vigilantism, mitigated through (dis)trustworthiness. In other words, while perceptions of police effectiveness and experience of police corruption were not statistically significant predictors of vigilante support as a standalone – these were found as impacting police trustworthiness, which in turn negatively correlated with support for vigilantism. Tankebe findings showed that age, education, and police trustworthiness were the most significant predictors of support for vigilante self-help.

### **Confidence in formal law enforcement studies – current Data**

Surveys conducted in democracies worldwide in past years, show that confidence in formal law enforcement and justice institutions is in constant decline<sup>78</sup>. A similar trend is seen in Israel, the studied population of this study, as well. According to a 2015 survey of Israel Central Bureau of Statistics (Public Confidence in Various Institutions, Bodies and Organizations) – 58% of the general Israeli population trusts the justice system as a whole, 53% trust the police and 38% trust the legislature.<sup>79</sup> Similarly, according to The Israeli Democracy Index of 2016, among the Jewish population, 56.5% trust the Supreme Court – with an average of 63.5% between 2003 and 2016; 41.9% trust the Police (with an average of 50.6% between 2003 and 2016); 28% trust the

---

“belonging and control in settings of institutional mistrust” page 14. Also arguing that when citizens’ access to justice is limited and unequal, they become less likely to resort to formal authorities and instead, more likely to turn to anti-criminal violence as lynching.]; see also Haas, N. E., de Keijser, J. W., & Bruinsma, G. J. Public support for vigilantism, confidence in police and police responsiveness. *Policing and Society*. 24(2) 1–18 (2013) [an experimental study that found participants more supportive of vigilantism when primed to think about the police as an unresponsive agent.]; Zizumbo-Colunga, D. (2010). Explaining Support for Vigilante Justice in Mexico (Insights Series No. 39). Vanderbilt University: Latin American Public Opinion Project (LAPOP). [showing a positive association between distrust in law enforcement and citizens’ support for vigilantism, particularly among those who trust in their community members.]

<sup>77</sup> Tankebe (2009).

<sup>78</sup> Pew. Views of the Nation, the Constitution and Government. June 26, 2014. <https://www.people-press.org/2014/06/26/section-2-views-of-the-nation-the-constitution-and-government/#trust> ; Nye, J., Jr., Zelikow, P. D., & King, D. C. (1997). Why people don't trust government. Cambridge Harvard University Press.; Citrin, J., & Green, D. P. (1986). Presidential leadership and the resurgence of trust in gov-ernment. *British Journal of Political Science*, 16, 431-453; VIRGINIA A. CHANLEY, THOMAS J. RUDOLPH, WENDY M. RAHN, The Origins and Consequences of Public Trust in Government: A Time Series Analysis, *Public Opinion Quarterly*, Volume 64, Issue 3, November 2000, Pages 239–256, <https://doi.org/10.1086/317987>; Tyler, T. R., Goff, P. A., & MacCoun, R. J. (2015). The Impact of Psychological Science on Policing in the United States: Procedural Justice, Legitimacy, and Effective Law Enforcement. *Psychological Science in the Public Interest*, 16(3), 75–109. <https://doi.org/10.1177/1529100615617791>; Shaw, Greg M. and Brannan, Kathryn E., The Polls-Trends Confidence in Law Enforcement (Spring 2009). *Public Opinion Quarterly*, Vol. 73, Issue 1, pp. 199-220, 2009. Available at SSRN: <https://ssrn.com/abstract=1455550> or <http://dx.doi.org/nfp015>; European Social Survey, 2011; Hough, Mike, Bradford, Ben, Jackson, Jonathan and Roberts, Julian R. (2013) Attitudes to sentencing and trust in justice: exploring trends from the crime survey for England and Wales. Ministry of Justice analytical series, Ministry of Justice, London, UK; Gallup, 2016 - Confidence ratings in police, USA (GALLUP) <http://www.gallup.com/poll/183704/confidence-police-lowest-years.aspx>

<sup>79</sup> [http://www.cbs.gov.il/reader/newhodaot/hodaa\\_template.html?hodaa=201619207](http://www.cbs.gov.il/reader/newhodaot/hodaa_template.html?hodaa=201619207) On a 1-5 scale the breakdown is as follow: 19% highly trust the justice system; 39.2 trust the justice system; 18.7 doesn't trust; 13.9 does not trust at all; 9.2 doesn't know/refuse to answer. 16.1% highly trust the police; 36.6 trust the police; 25.6 doesn't trust; 18 does not trust at all; 3.7 doesn't know/refuse to answer. 7.1% highly trust the legislature; 30.8 trust the legislature; 33.7 doesn't trust; 23.7 does not trust at all; 4.6 doesn't know/refuse to answer.

legislature (with an average of 40.9% between 2003 and 2016).<sup>80</sup> A similar trend of decline in confidence is observed in the Arab population, with even lower levels of trust (51.8% trust the Supreme Court, 27.2% trust the police and 18.4% trust the legislature, with an average of 59.7%, 44.4% and 38.9% between the years 2003 to 2016, respectively).<sup>81</sup> According to a 2015 survey of the Public Opinion on the Police and Court Services in Israel – 39% positively value the police functioning; 41% positively value the functioning of courts.<sup>82</sup>

Arye Rattner longitudinal research, whose scale is used in this study, is the most comprehensive research done in the field of legal disobedience and the rule of law in Israel, conducted annually between the years 2000 and 2017, in Hebrew.<sup>83</sup> Slightly different than the findings reported above, Rattner found that between the year 2000 and 2017, perceptions towards law enforcement and state institutions remain similar in some instances (especially with regard to police functioning), with even a moderate incline among populations who traditionally lack trust (referring specifically to Arabs, and the Haredi – ultraorthodox population): Rattner found that **Perceptions on Police – fairness** remain constant with 38% perceived the Israeli police as acting in a fair manner in 2000 as well as 2017, among the Jewish population; 33% and 35% correspondingly among the Arab population: **Perceptions on Police – equal treatment** moderate decline with 36% perceived the Israeli police as acting in an equal manner in 2000 and 29% in 2017, among the Jewish population; 26% and 28% correspondingly among the Arab population; **Police – trustworthiness** was found in decline with 32% perceived the Israeli police as trustworthy in 2000 and 24% in 2017, among the Jewish population; 25% and 28% correspondingly among the Arab population.

With regards to attitudes towards courts, findings suggest a constant decline in confidence: **Perceptions on Israeli courts – fairness** declined from 71% perceived the Israeli courts as acting in a fair manner in 2000 to only 49% in 2017, among the Jewish population, and from 60% to 47% among Arabs.

**Perceptions on Israeli courts – equal treatment** declined from 65% perceived the Israeli courts as acting in an equal fair manner in 2000 to only 45% in 2017, among the Jewish population, and from 49% to 37% among Arabs. Trust towards courts declined from 61% (perceiving the Israeli courts trustworthiness in 2010) to only 36% in 2017, and among Arabs, from 46% to 39% (Supreme court' trustworthiness declined from 80% in 2000 to 49% in 2017 among Jews and from 66% in 2000 to 46% in 2017 among Arabs.)

Between the years 2000 and 2007, Rattner also looked at two additional scales, which are tested in this study as well – normative commitment to law scale and support of violent self-help. Between the years 2000 and 2007, normative commitment to law has been in decline among all studied populations; somewhat surprisingly, support of self-help has been also in decline.

---

<sup>80</sup> <https://www.idi.org.il/media/7799/democracy-index-2016.pdf> page 109 onwards

<sup>81</sup> <https://www.idi.org.il/media/7799/democracy-index-2016.pdf> page 109 onwards

<sup>82</sup> [http://www.cbs.gov.il/reader/newhodaot/hodaa\\_template.html?hodaa=201619291](http://www.cbs.gov.il/reader/newhodaot/hodaa_template.html?hodaa=201619291)

<sup>83</sup> Rattner. A., *Legal Culture: Law and the Legal System in the Eyes of the Israeli Public*. The Shasha Center for Strategic Research, Hebrew University, Jerusalem (In Hebrew)(2009); Arye Rattner & Dana Yagil, *The Legal Culture: The Legal System in the Eyes of the Israeli Society, Longitudinal Study* (Shasha Center for strategic studies) (2009), in Hebrew; subsequent study presenting findings from 2009 to 2017 was not published, with author on file.

### **Critique of procedural justice model**

The model at the heart of this work, the procedural justice model, presents a normative approach to compliance. This model is clearly not free from criticism, that should be at least briefly stated. First, a normative approach to compliance should not be discussed without mentioning a competing, well-established paradigm – the instrumental model of compliance. According to that approach, obedience depends first and foremost on the risk of sanction in the event of non-compliance (and not the process.) Second, a substantial line of research blurs the distancing line between process and outcome, and even more so, shows that substantive justice, rather than procedural, is the dominant factor in evaluating satisfaction towards formal law enforcement and the criminal justice system. For example, a study that looked at prisoners' perceptions of legitimacy concluded that the "data leave open the possibility that prisoners may regard the outcome of the sanctions, rather than the process of delivering the sanctions, as illegitimate."<sup>84</sup> Another study that tested the procedural model among participants who had previous experiences with law authorities, found that participants often do not distinguish between how a decision is made and what that decision.<sup>85</sup> Heinz hypothesized that the importance of procedural justice depends on how high the stakes are, and conducted a study among felony plea bargaining. Finding showed that while the police and victims made a distinction between procedural fairness and outcomes, for the defendants who arguably had more at stake, "outcome and procedural measures formed a single factor."<sup>86</sup> Further, a study by Jenness and Calavita on prisoners' satisfaction showed that the outcome – and not procedural justice – defined for them whether or not the process was fair and how satisfied they were with the decision in their regard.<sup>87</sup> Based on their study of convicted felons, Tyler himself (et. al) admitted that the severity of the outcome may at times temper (even if not completely surpass) the impact of procedural justice considerations.<sup>88</sup> These findings are inconsistent with the procedural justice' assumption that people's satisfaction with law enforcement is independent of outcomes and depends on their perception of a fair process. On the contrary, the findings presented above theoretically affirm the importance of institutional and instrumental considerations in people's views towards formal justice and self-help.

This study does not presume to say that procedural justice is an exclusive factor in shaping people's views towards self-help in the form of e-vigilantism, but that it is *a* factor – arguably a dominant one. Further, the studies above stated can be explained by the fact that for the most part, these tested fairness and legitimacy conducted among prisoners, which naturally makes them less applicable in the context of this work, that look at the overall-general population; Heinz for example, found that outcomes were dominant only for defendants – but not for the police or victims, leaving procedural justice a central component when examining the entire population. Lastly, one must keep in mind that in the described literature, the procedural justice model might be questioned but it is not refuted; Jenness and Calavita for example found that while the substantive dimension is of critical importance, the procedural aspects largely subordinate to it. In

---

<sup>84</sup> Brunton-Smith, Ian & Daniel J. McCarthy. Prison Legitimacy and Procedural Fairness: A Multilevel Examination of Prisoners in England and Wales. 33 Justice Q. 1029, p. 1048 (2016).

<sup>85</sup> Berrey, Ellen, Steve G. Hoffman, & Laura Beth Nielsen (2012) "Situated Justice: A Contextual Analysis of Fairness and Inequality in Employment Discrimination Litigation," 46 Law & Society Rev. 1–36.

<sup>86</sup> Heinz, Anne M. (1985) "Procedure v. Consequences," in Talarico, S., ed., Courts and Criminal Justice. Beverly Hills: Sage Publications. 13–34.

<sup>87</sup> Valerie Jenness, Kitty Calavita. "It Depends on the Outcome": Prisoners, Grievances, and Perceptions of Justice. Law & Society Review, 52(1), 41 (2018).

<sup>88</sup> Casper, Jonathan D., Tom Tyler, & Bonnie Fisher (1988) "Procedural Justice in Felony Cases," 22 Law & Society Rev. 483–507.



other words, the study suggested that the institutional context has the power to shape attitudes towards fairness and justice (still leaving fairness and legitimacy an important part of the equation).

### **Social Trust, community trustworthiness and solidarity**

One of this study's hypotheses is that social cohesion *positively* correlates with support of one form of self-help, e-vigilantism. The concept of 'social trust' has been heavily studied, and a broad discussion on the mere definition of what is trust goes beyond the scope of this work.<sup>89</sup> While it can be agreed that there is no universally accepted definition of trust,<sup>90</sup> some of trust' definitions address an interpersonal, cooperative relationships between humans<sup>91</sup> or an 'expectation for an act with sufficient level of competence to obtain a positive outcome'.<sup>92</sup> Other definitions point to an incentive to act on behalf of another person interest,<sup>93</sup> or a "process through which social interaction opportunities involving risk are transformed into trust relations in which the people involved come to trust each other and honor that trust."<sup>94</sup> In the context of crime, 'community trustworthiness' has been defined as "citizens' perception of the likelihood of other members of their community to intervene effectively to help them confront crime".<sup>95</sup>

For our purposes, whenever referring to social trust (also referred here interchangeably as trustworthiness, community trust or simply trust), I mean the basic expectation of good will in others, or in other words, "generalized trust", meaning, the "belief in the benevolence of human nature in general."<sup>96</sup> It is further assumed here, that considering how information sharing operates, theories on trust have been extended to virtual communities.<sup>97</sup>

---

<sup>89</sup> When discussing 'trust', an initial distinguish between two main schools of thought should be made: first is the approach that assumes trust is a psychological predisposition, determined in early life, unlikely to change, and which influences trust related behaviors and decisions. [For a preliminary and partial read, see Becker, Lawrence C. 1996. "Trust as Noncognitive Security about Motives." *Ethics* 10:743-61; Jones, Karen. 1996. "Trust as an Affective Attitude." *Ethics* 10:74-125; Uslander, Eric M. 1999. "Democracy and Social Capital." Pp. 121-50 in *Democracy and Trust*, edited by Mark E. Warren. Cambridge, UK: Cambridge University Press.] The competing approach, the social learning perspective, assumes people generalize from past experiences when developing their future expectation on an ongoing basis. According to this view, trust is viewed as somewhat flexible, situation-based concept. See Hardin, Russell. 2002. *Trust and Trustworthiness*. New York: Russell Sage Foundation; Rotter, Julian B. 1971. "Generalized Expectancies for Interpersonal Trust." *American Psychologist* 26: 443-50.

<sup>90</sup> Rousseau, D. M., Sitkin, S. B., Burt, R. S., & Camerer, C. (1998). Not so different after all: A cross-discipline view of trust. *Academy of Management Review*, 23(3), 393-404.

<sup>91</sup> Hardin, Russell. 2002. *Trust and Trustworthiness*. New York: Russell Sage Foundation

<sup>92</sup> Walterbusch, M., Gräuler, M., & Teuteberg, F. (2014). How Trust is Defined: A Qualitative and Quantitative Analysis of Scientific Literature. *Proceedings of the Twentieth Americas Conference on Information Systems*, Savannah.

<sup>93</sup> Karen S. Cook, Russell Hardin, and Margaret Levi, *Cooperation without Trust?* (New York: Russell Sage, 2005)

<sup>94</sup> Cook, Karen S., Toshio Yamagishi, Coye Cheshire, Robin Cooper, M. Matsuda, and R. Mashima. 2005. "Trust Building via Risk Taking: A Cross-Societal Experiment." *Social Psychology Quarterly*. Vol 68, No. 2, pp. 121

<sup>95</sup> D. Zizumbo-Colunga, Community, Authorities, and Support for Vigilantism: Experimental Evidence. *Polit Behav* 39(4):989, 996 (2017)

<sup>96</sup> Yamagishi, Toshio and Midori Yamagishi. 1994. "Trust and Commitment in the United States and Japan." *Motivation and Emotion* 18:129, 139.

<sup>97</sup> See Ridings et al. (2002); see also Stephanie J. Tobin, Eric J. Vanman, Marnize Verreyne & Alexander K. Saeri (2015) Threats to belonging on Facebook: lurking and ostracism, *Social Influence*, 10:1, 31-42 [active participation on social media sites gave users a greater sense of connectedness and community]; Cheshire, Coye. Online Trust, Trustworthiness, or Assurance?. *Daedalus*. Vol. 140, Issue 4: 49 (2011); Gefen (1997).

A significant body of research suggests that social capital<sup>98</sup> influences a wide range of human activities, and trust specifically, is seen as foundational to understanding cooperative behavior of many types. Amongst the known authors of trust related literature, Arrow and Fukuyama showed that levels of trust within a society predict its economic strength.<sup>99</sup> Gamson further argued that under circumstances in which citizens distrust their government, efficacious citizens in particular, may engage in non-institutionalized political mobilization.<sup>100</sup> Putnam showed that governments act more efficient where there is greater civic engagement and cooperation.<sup>101</sup> Numerous studies concluded that trust within a community is one of the most important societal factors that makes democracy work.<sup>102</sup>

In relation to this study's focus on self-help and privately administered justice, some have pointed to a potential positive link between social trust or community ties to conformism or obedience; Kelman for example concluded, that conforming to the expectations of social roles enables people to "establish and maintain a satisfying self-defining relationship to another person or a group."<sup>103</sup> Literature within the realm of procedural justice repeated this notion, that abiding by the norms and values within social groups is important not only because it allows internalizing the group's norms, but also because it allows people to gain value from the self-defining relationship with the group and its members.<sup>104</sup> Other further argued that conforming to group norms is a way in which one can demonstrate group membership, thus legitimizing the group authorities, making it a social norm to which one is internally motivated to obey.<sup>105</sup>

Examining the relations between trust within community members and obedience from a 'reversed perspective', studies point out to a positive relationship between social trust and collective action or self-help. Indeed, community trust has been found to increase citizens' estimation of being successful in collective action,<sup>106</sup> and increase willingness to solve problems through group

---

<sup>98</sup> Though social trust is not necessarily part of the definition of social capital per se – it is a close consequence or defining factor relating to it, thus often regarded as a proxy. Further, one of the definitions of 'social capital' indeed includes trust, being defined as "features of social life-networks, norms, and trust-that enable participants to act together more effectively to pursue shared objectives." R. D. Putnam, 'Turning In, Turning Out: The Strange Disappearance of Social Capital in America', *Political Science and Politics* 28(4), 664-668, 664 (1995).

<sup>99</sup> Arrow, K. Gifts and Exchanges. *Philosophy and Public Affairs*, 1, 4, 343-362 (1972); Fukuyama, F. *Trust: The Social Virtues and the Creation of Prosperity*, New York: Free Press (1995)

<sup>100</sup> Gamson, W. A. (1968). *Power and Discontent*. Homewood, Ill: Dorsey Press.

<sup>101</sup> Putnam, R. *Making Democracy Work*, Princeton University Press, Princeton, NJ (1993)

<sup>102</sup> For a partial read see Putnam (1993); Uslaner, Eric M., *The Moral Foundations of Trust* (September 2002). Available at SSRN: <https://ssrn.com/abstract=824504> or <http://dx.doi.org/10.2139/ssrn.824504> ; Nannestad Peter. 2008. "What Have We Learned about Generalized Trust, If Anything?" *Annual Review of Political Science* 11:413–36.

<sup>103</sup> Kelman, H. C. Compliance, identification, and internalization: Three processes of attitude change. *Journal of Conflict Resolution*, 2, 51, p. 53 (1958).

<sup>104</sup> Tyler, T., & Blader, S. *Cooperation in groups: Procedural justice, social identity, and behavioral engagement*. Philadelphia, PA: Psychology Press (2000).

<sup>105</sup> Horne, C. A social norms approach to legitimacy. *American Behavioral Scientist*, 53, 400 (2009).

<sup>106</sup> For an initial read see Kim, B. K., Lee, J. H., Kim, J. R., Jeong, B. G., & Park, K. S. (2011). Associations between Self-Efficacy, Social Capital and Self-Rated Health Status in Healthy Individuals. *Korean Journal of Health Promotion*, 11(3), 144–153. ; Putnam, R. D. (1995). Tuning In, Tuning Out: The Strange Disappearance of Social Capital in America. *PS Political Science and Politics*, 28(4), 664–683. Welch, M., Rivera, R., Conway, B., Yonkoski, J., Lupton, P., & Giancola, R. (2001). Determinants and Consequences of Social Trust. *Sociological Inquiry*, 75(4).

activity.<sup>107</sup> The interplay between social trust and collective self-help has been also discussed within the scope of law. As noted by Malone for example, “in order for the perceived failure of the justice system to translate into collective action, citizens would need to have some sense of solidarity with other members of their community and view citizen action as a viable means for achieving their goals.”<sup>108</sup> In his work on support for vigilantism, Daniel Zizumbo-Colunga shows that social trust (citizens’ perceptions of a trusting community) and institutional trust (trust towards law enforcement), jointly influence support for vigilantism.<sup>109</sup> In the experiment, conducted among Mexican citizens, researcher found a direct-positive effect of community trustworthiness, whereas participants exposed to low community trust condition were significantly less likely to support a vigilante action and vice-versa, those exposed to high community trust condition were more likely to support confronting organized criminals directly as means of self-help.<sup>110</sup>

### **Critique of trust as proxy for democracy and self-help/cooperation**

The assumption that confidence in formal legal institutions negatively correlates with support of e-vigilantism as self-help considers trust in formal institutions as a proxy for democracy. It is further argued that community trustworthiness positively correlates with support of e-vigilantism, on similar premises; that trust in general go hand in hand with democracy and cooperative behavior.

With that said, it should be also noted that “Democracy requires trust but also presupposes an active and vigilant citizenry with a healthy skepticism of government and a willingness, should the need arise, to suspend trust and assert control over government—at a minimum by replacing the government of the day.”<sup>111</sup> Studies indeed found a connection between community strength and anti-democratic political participation.<sup>112</sup>

In the contexts of self-help, Robert Sampson, Steve Raudenbush, and Felton Earls, having tested their hypothesis on a 1995 survey of 8782 residents of 343 neighborhoods in Chicago, Illinois, showed that collective efficacy (defined as social cohesion among neighbors along with willingness to intervene on behalf of the common good), is linked to reduced violence. In other words, study found that with all else being equal, neighborhoods where residents trusted each other

---

<sup>107</sup> Fong, E., & Chang, L. (2011). Community Under Stress: Trust, Reciprocity, and Community Collective Efficacy During SARS Outbreak. *Journal of Community Health*, 36(5), 797–810; Stajkovic, A. D., Lee, D., & Nyberg, A. J. (2009). Collective efficacy, group potency, and group performance: Meta-analyses of their relationships, and test of a mediation model. *Journal of Applied Psychology*, 94(3), 814–828.

<sup>108</sup> Malone, M. F. T. (2012). *The Rule of Law in Central America: Citizens’ Reactions to Crime and Punishment*. New York, NY: Bloomsbury Academic. P. 117

<sup>109</sup> D. Zizumbo-Colunga (2017)

<sup>110</sup> D. Zizumbo-Colunga (2017)

<sup>111</sup> Mishler, W., & Rose, R. Trust, distrust and skepticism: Popular evaluations of civil and political institutions in post-communist societies. *The Journal of Politics*, 59(2), 418–451, p. 419 (1997)

<sup>112</sup> Acemoglu, D., Reed, T., & Robinson, J. A. (2013). Chiefs: Elite Control of Civil Society and Economic Development in Sierra Leone (Working Paper No. 18691). National Bureau of Economic Research; Armony, A. C. (2004). *The Dubious Link: Civic Engagement and Democratization*. Palo Alto, Cal: Stanford University Press; Berman, S. (1997). Civil Society and the Collapse of the Weimar Republic. *World Politics*, 49(3), 401–429 ; Graeff, P. (2010). Social Capital: The Dark Side. In G. T. Svendsen & G. L. H. Svendsen, *Handbook of Social Capital: The Troika of Sociology, Political Science and Economics* (pp. 143–161). Northampton, MA: Edward Elgar.

suffered less violence than those where neighbors were suspicious of one another.<sup>113</sup> Viewing e-vigilantism as a form of non-physical violent self-help, this somewhat contradicts the assumption that social cohesion increases willingness to act against formal actors.

It may further be argued against the ‘trust narrative’ that a society can function in cooperation very well without trust, having other mechanisms such as self-regulation, management compensation and social capital networks, as more efficient ways for facilitating cooperation (absent of trust).<sup>114</sup>

### **Additional variables: Demographics, Prior Involvement with Authorities, FIS (Facebook Intensity Scale) and Fear of Crime**

Aside from the main four variables (Perceptions of Fairness, Normative Commitment to law, Institutional and Social trust), the survey also measures Demographics, Prior Involvement with Authorities, FIS (Facebook Intensity Scale) and Fear of Crime, as explaining factors.

#### **Demographics**

Age, ethnicity, education, religion, political views and income (socio-economic statuses) were tested – all of which have been previously recognized as factors effecting attitudes toward self-help, thus possibly mitigating effect or effecting support of e-vigilantism; wealth has been suggested to negatively correlate with support for vigilantism.<sup>115</sup> Education might be a significant factor given its role in fostering support for democratic values; some studies suggested that by increasing the perceived importance of the rule of law, education might play a role in the dynamic between trust and self-help.<sup>116</sup> Religion might have a possible negative impact on normative commitment to State Law, as ‘religiousness’ entails – specifically in Israel – a parallel set of beliefs and values that is distinct from State Law (referring to Biblical Law.)

#### **Prior involvement with authorities**

Clearly, prior experience with the police and/or courts – and satisfaction of treatment received by formal law enforcement – might shape confidence in law institutions and impact attitudes towards self-help.

#### **FIS – Social Media usage index**

The studied behavior, e-vigilantism, involves online activity on Social Media platforms. Given the likelihood to impact social media behavior, including tendency to share, comment or post, the study also measured one’s levels of engagement with Social Media, meaning, social media usage, as a possible mitigator that could significantly impact support of e-vigilantism, regardless of posts’ content itself or other core beliefs.

#### **Fear of crime**

For the past several decades, scholars have devoted much attention to fear of crime (FOC).<sup>117</sup> A specific field of study within FOC identifies a correlation between fear of crime and violent self-

---

<sup>113</sup> Sampson, Robert J, Stephen Raudenbush Felton Earls. 1997. “Neighborhoods and Violent Crime: A Multilevel Study of Collective Efficacy.” *Science* 277: 918-924 .

<sup>114</sup> Cook, K. S., Hardin, R., & Levi, M. (2005). *Cooperation without trust?* New York: Sage.

<sup>115</sup> Black (1983); D. Zizumbo-Colunga (2017).

<sup>116</sup> See Lipset, S. Michael (1959) “Some Social Requisites of Democracy: Economic Development and Political Legitimacy,” *53 American Political Science Rev.* 69–105. [Discussing the link between education and democracy, and the impact on education on adopting “norm of tolerance”]

<sup>117</sup> For a comprehensive review of the fear of crime literature; see also more recent studies on FOC and trust Gray, E., Jackson, J., & Farrall, S. (2011). *Feelings and Functions in the Fear of Crime, Applying a New Approach to Victimisation Insecurity.* *British Journal of Criminology*, 51, 75-94.; Jackson, J. and Bradford, B. (2009) ‘Crime,

help, in part suggesting trust as a mitigating factor. Though the causal orderings of the two may be reversed<sup>118</sup>, fear of crime has been suggested as having an impact on trust and confidence in police; it has been suggested that people who tend to worry about crime have diminished confidence in formal law enforcement and that these low levels of trust translate into less likelihood to rely on police and in turn led to viewing use of violence as acceptable means of protective behavior.<sup>119</sup> Specifically, several studies have indicated that fear of crime impacts individual behavior and attitude towards vigilantism.<sup>120</sup>

---

Policing and Social Order: On the Expressive Nature of Public Confidence in Policing', *British Journal of Sociology*, 60, 3, 493-521; Innes, M. Hayden, S. Lowe, T. Mackenzie, H. Roberts, C. and Twyman, L. (2004) 'Signal Crimes and Reassurance Policing Volumes 1 and 2'. Research Report. Guildford: University of Surrey

<sup>118</sup> This study follows a body of literature that view fear of crime as an independent variable impacting trust. Nonetheless, it should be stated that studies also show that it is in fact confidence in the police that impacts fear of crime. See Bahn, C. (1974). The reassurance factor in police patrol. *Criminology*, 12, 338-345; Skogan, W. g., & Hartnett, S. M. (1997). *Community policing, Chicago style*. New York: Oxford University Press; Innes, M. (2007). The reassurance function. *Policing: A Journal of Policy and Practice*, 1, 132-141; Wesley g. Skogan. Concern About Crime and Confidence in the Police: Reassurance or Accountability? *Police Quarterly*, 12(3) 301-318 (2009).

<sup>119</sup> Xu, Y., Fiedler, M. L., & Flaming, K. H. (2005). Discovering the impact of community policing: The broken windows thesis, collective efficacy, and citizens' judgment. *Journal of Research in Crime and Delinquency*, 42, 147-186; Ren, L., Cao, L., Lovrich, N., & Gaffney, M. (2005). Linking confidence in the police with the performance of the police: Community policing can make a difference. *Journal of Criminal Justice*, 33, 55-66; Liska, A. E., Sanchirico, A., & Reed, M. D. (1988). Fear of crime and constrained behavior: Specifying and estimating a reciprocal effects model. *Social Forces*, 66, 827-837; Rader, N. E., & Haynes, S. H. (2014). Avoidance, protective, and weapons behaviors: An examination of three types of constrained behaviors on fear of crime. *Journal of Crime and Justice*, 37(2), 197-213; Rountree, P. W. (1998). A reexamination of the crime-fear linkage. *Journal of Research in Crime and Delinquency*, 35, 341-372.

<sup>120</sup> Ziegenhagen E. A., Brosnan D., Citizen Recourse to Self Protection: Structural, Attitudinal and Experimental Factors. *Criminal Justice Policy Review* 4(2) (1990); Baker, T., Metcalfe, C. F., Berenblum, T., Aviv, G., & Gertz, M. Examining public preferences for the allocation of resources to rehabilitative versus punitive crime policies. *Criminal Justice Policy Review* 26, 448 (2015); Costello, M. T., Chiricos, T., & Gertz, M. Punitive attitudes toward criminals: Exploring the relevance of crime salience and economic insecurity. *Punishment & Society*, 11, 25 (2009).

## METHODOLOGY

To test these hypotheses, self-reported levels of trust (in institutions and social), perception on fairness, normative commitment to law and support of e-vigilantism are measured via a web-based survey of a sample (N=452) of Israeli social media users. Survey was administrated online via Qualtrics.

### **The studied community – Facebook**

E-vigilantism occurs throughout the online sphere and on different Social Media platforms. The platform chosen for this study is Facebook, given several main reasons. First, Facebook is by far the largest and most popular Social Networking site world-wide. As of January 2019,<sup>121</sup> Facebook had 2.27 billion monthly active users,<sup>122</sup> and the platform thus hosts a wide range of e-vigilantism cases daily. Second, given its characteristics, the platform allows for both a description of a deviant behavior as well as a video/photo, which amplifies the studied behavior.<sup>123</sup> Lastly, as discussed below, Facebook is extremely prevalent in Israel, among the studied population.

### **Subject population**

The subject population is Israeli adult population – Israeli citizens, 18 years old and above, active social media users with a Facebook account, Hebrew speaking. Survey was chosen to be conducted among Israelis for several reasons.

First, as discussed, the described phenomenon of e-vigilantism is a pressing matter in the Israeli society. Second, the Israeli society is characterized with extremely high Internet and Social Media penetration rate, which allows for a (limited) generalization from the subpopulation of Social Media users, to the overall population. Statistics as of December 2017, show a general Internet penetration rate of 79.7%<sup>124</sup> (compared with a worldwide Internet penetration of 55.1%).<sup>125</sup> Other sources show an even higher penetration; 2016 survey by ISOC found 89% Internet penetration rate in Israel general population.<sup>126</sup> Specifically with regards to Social Media, a comparative worldwide report found Israel the number one most engaged Social Networking market worldwide, with an average of 11.1 hours per visitor spent on sites during the month.<sup>127</sup> According to Internet World Stats, Facebook in particular is highly prevalent in Israel – 5,800,000 Facebook subscribers in December 2017, meaning 68.6% of the *Israeli population*<sup>128</sup> (compared with a

---

<sup>121</sup> Founded by Mark Zuckerberg in 2003 as Facemash, as an online service for students to judge the attractiveness of their fellow students. See history and facts in <https://www.brandwatch.com/blog/history-of-facebook/>

<sup>122</sup> Last visited On April 1<sup>st</sup> 2019: <https://www.statista.com/statistics/272014/global-social-networks-ranked-by-number-of-users/>

<sup>123</sup> Compared with other platforms, that have a word limited as Twitter for example, or an emphasis on visuals, such as Instagram, Facebook allows for the detailed description accompanied with a video/photo which makes e-vigilantism widespread phenomena on Facebook.

<sup>124</sup> Internet World Stats. Internet Usage in the Middle East, <https://www.internetworldstats.com/me/il.htm>

<sup>125</sup> <https://www.internetworldstats.com/stats.htm>

<sup>126</sup> <https://www.isoc.org.il/sts-data/11216>

<sup>127</sup> comscore PRESS RELEASE of December 21, 2011. <https://www.comscore.com/Insights/Press-Releases/2011/12/Social-Networking-Leads-as-Top-Online-Activity-Globally>

<sup>128</sup> <https://www.internetworldstats.com/me/il.htm> ; Pew report of 2011 found Israel to be the lead country of Social Media use, with 53% of the total population (not only Internet users) engaged with Social Media (USA to follow with 50% SM engagement of the total population.) Pew Internet & American Life Project. Global Digital Communication:

worldwide 26.3% Facebook use).<sup>129</sup> A more updates source, of February 2019, show that among other Social Media platforms, Facebook is by far the most used platform in Israel with a market share of 77.15% (Pinterest and YouTube to follow, with 11.21% and 5.36% respectfully.)<sup>130</sup> This data backs the assumption that the Israeli adult population engaged with Facebook, is representative of social media users in Israel (if not the entire Israeli population to some degree.) Lastly, Israel seems to be a suitable case-study for testing this study's hypotheses relating to trust and e-vigilantism, being a group supported act of self-help: studies show constant decline in public' trust in the Israeli justice system,<sup>131</sup> and in parallel an increase in use of alternative justice mechanisms.

Also, while rifted in some respects, the Israeli society nonetheless enjoys a sense of solidarity or social cohesion. One of the hypotes made here – that community or social trust positively correlates with support of e-vigilantism – seems to be of special relevance when talking about the Israeli society. While social or community trust has been reportedly in constant decline in recent decades<sup>132</sup> (similarly to the reported trend of institutional trust)<sup>133</sup>, traditionally, solidarity is assumed to be a defining characteristic of the Israeli society. This notion has been backed by national surveys; according to Israel Democracy Index (2014), solidarity levels were found to be mid to high.<sup>134</sup> Similarly, and though finding an overall<sup>135</sup> low ranking of social cohesion, The Social Cohesion Radar found “trust in people” in Israel as mid-level and in increase over the year 1989 to 2012.<sup>136</sup> Solidarity and helpfulness in the Israeli society were also found to be in rise between 1989 to 2012.<sup>137</sup>

### **Dependent Variable – supporting e-vigilantism**

To test support of e-vigilantism, participants were presented with a mock Facebook post presenting a picture of a young white male reaching for a cellphone located in a vehicle thorough a car' window. The picture is accompanied with the following text (in Hebrew), making it clear that the man is trying to steal the phone: “this scumbag caught on security cam ‘borrowing’ my phone, Share and let's make sure he remembers to bring me back my phone.. Thank you all.” See survey

---

Texting, Social Networking Popular Worldwide. (2011) <https://www.pewglobal.org/2011/12/20/global-digital-communication-texting-social-networking-popular-worldwide/>

<sup>129</sup> <https://www.internetworldstats.com/facebook.htm>

<sup>130</sup> <http://gs.statcounter.com/social-media-stats/all/israel/#monthly-201902-201902-bar>

<sup>131</sup> Arye Rattner (2009).

<sup>132</sup> Robert D. Putnam. *Bowling Alone: The Collapse and Revival of American Community* (Simon & Schuster, 2002); Paxton, Pamela. 2005. Trust in Decline? *Contexts*, 4(1): 40-46; Robinson, Robert V. and Elton F. Jackson. 2001. Is Trust in Others Declining in America? An Age-Period-Cohort Analysis, *Social Science Research*, 30: 117-145

<sup>133</sup> See chapter on trust and footnotes there, describing the general trend of decline in confidence in formal government actors in western societies.

<sup>134</sup> Israel Democracy Index (2014) [https://www.idi.org.il/media/3667/democracy\\_index\\_2014.pdf](https://www.idi.org.il/media/3667/democracy_index_2014.pdf)

<sup>135</sup> The overall index of cohesion is composed of three factors - social relations; connectedness; focus on common goods. Trust in People being one of the components composing social relations.

<sup>136</sup> Social Cohesion Radar Measuring Common Ground. An International Comparison of Social Cohesion. Bertelsmann Stiftung (2013). Available at: [https://www.bertelsmann-stiftung.de/fileadmin/files/BSt/Publikationen/GrauePublikationen/GP\\_Social\\_Cohesion\\_Radar.pdf](https://www.bertelsmann-stiftung.de/fileadmin/files/BSt/Publikationen/GrauePublikationen/GP_Social_Cohesion_Radar.pdf) (last visited 7/10/2018), page 35

<sup>137</sup> Social Cohesion Radar Measuring Common Ground. An International Comparison of Social Cohesion. Bertelsmann Stiftung (2013). Available at: [https://www.bertelsmann-stiftung.de/fileadmin/files/BSt/Publikationen/GrauePublikationen/GP\\_Social\\_Cohesion\\_Radar.pdf](https://www.bertelsmann-stiftung.de/fileadmin/files/BSt/Publikationen/GrauePublikationen/GP_Social_Cohesion_Radar.pdf) (last visited 7/10/2018), common good sub-index, page 39

in appendix A. Participants were then presented with questions testing their behavioral and attitudinal support: first, they were asked if they have *written or shared* (liking was overlooked)<sup>138</sup> a similar post in the past. Bearing in mind the pitfalls of self-report especially when reporting about one's own behavior<sup>139</sup>, in order to further assess participant attitudes toward e-vigilantism, they were presented with two items on a five Likert-like scale, inspired by Tankebe<sup>140</sup>; first statement used "It is all right for members of the public to share/write such post". Second statement – "It is sometimes OK for people to take the law into their own hands if they feel the police are unable to protect them, as done with this post". See survey question in appendix A.

To create a single-item measurement for support of e-vigilantism – for those who responded negatively to 'behavioral support' (meaning, reported that they did not post or shared similar post in the past), attitudinal views is averaged on a 1 to 5 scale. A positive behavioral support (previous share or like) is considered enough to determine the strongest support of e-vigilantism (received 5 on the scale of support), where attitudinal views were overlooked.

### **Independent Variables: Trust in law authorities, Perceptions on procedural Fairness and Normative commitment to Justice**

Questions used to operationalize and measure trust in formal law authorities, perceptions on procedural justice and normative commitment to law, are drawn from prior work of Arye Rattner.<sup>141</sup> In his extended study, Rattner applied Tyler's model to the Israeli society and measured obedience and attitude towards law among Israelis, analyzing five different groups in the Israeli society: Jews in the general population, Orthodox Jews (Charedim), Jewish religious settlers, new immigrants from the former USSR, and Arabs.

Having a fair reliability score ( $\alpha$  Cronbach > 0.6), Rattner's scales were chosen given two main reasons. Rattner's longitudinal research is the most comprehensive research done in the field of legal disobedience and the rule of law in Israel, conducted annually between the years 2000 and 2017,<sup>142</sup> in Hebrew – and so scales are adapted to the Israeli audience and culture. Second, based on its reliance on the Tylerian model<sup>143</sup>, measurements used by Rattner also resemble in part to

---

<sup>138</sup> Subjects are only presented with a question regarding previous share or writing of a similar post – and not the 'liking' of such post. That is, given the low cost of 'liking' mechanism. See Pew Research Center, What people like and dislike about Facebook, FEBRUARY 3, 2014, available at: <http://www.pewresearch.org/fact-tank/2014/02/03/what-people-like-dislike-about-facebook/> (last retrieved 1.1.2019) [Showing that while 44% users "like" their friends' content and comment on content relatively frequently, only 10% will change their own status that often.]

<sup>139</sup> Noting that original study design incorporated a measurement of actual posting behavior rather than self-report. This design was eventually abandoned due to technical problems with collecting such data and ethical issues.

<sup>140</sup> Tankebe's Vigilantism support measurement looked at public attitudes toward vigilantism using a Likert-like scale with responses ranging from strongly disagree to strongly agree. The items included: (1) It is all right for members of the public to beat up crime suspects. (2) People who kill armed robbers should not be blamed. (3) It is sometimes OK for people to take the law into their own hands if they feel the police are unable to protect them. (4) It is pointless to hand over a suspected criminal to the police because they won't bring the offender to justice. (5) Each community should organize itself to provide it with security against criminals even if the police disagree with that. Responses to these questions were summed to create an index of support for vigilantism ( $\alpha$  cronbach =0.70, mean=3.15, s.d.=0.85).

<sup>141</sup> Rattner (2009).

<sup>142</sup> Rattner (2009).

<sup>143</sup> Sunshine, Jason, & Tom R. Tyler (2003) "The Role of Procedural Justice and Legitimacy in Shaping Public Support for Policing," 37 Law & Society Rev. 513–48. [Tyler and Sunshine Procedural fairness measurement using six-point Likert-type scale (from "almost always" to "almost never.") on three aspects of procedural justice - (a) behavior consistent with procedural justice; (b) decision making and (c) quality of treatment people received: the police



those used by Tankebe<sup>144</sup>, thus allowing the overall replication of Tankebe's study design (which has a focus on vigilantism).

Rattner's indexes include: (a) eight-item scale for measuring perceptions on fairness and equal treatment by police and courts; (b) five-item scale for measuring trust in law enforcement authorities<sup>145</sup>, and (c) fourteen-item (14) scale measuring normative commitment to justice and legitimacy of the law.

This study includes (a) Rattner's **Fairness scale** in full, meaning, an eight-item scale for measuring perceptions on fairness and equal treatment by police and courts, with reliability score  $\alpha$  Cronbach=.870. (b) four-item scale for measuring **Trust in institutions**,  $\alpha$  Cronbach=.851, focusing on police and courts, and removing Rattner's fifth question dealing with the legislature ("Knesset") due to reliability. (c) eight-item scale measuring **Normative Commitment to law** (reverse coded),  $\alpha$  Cronbach=.784, removing question dealing with superiority of state law vs. biblical law. See Survey questions in appendix A.

---

(1)Make decisions about how to handle problems in fair ways and (2)Treat people fairly. (3)Treat everyone in your neighborhood with dignity and respect (4)Treat everyone in your community equally (5)Accurately understand and apply the law and (6)Make their decisions based upon facts, not their personal biases or opinions on: (7)Who to stop and question on the street (8)Who to stop for traffic violations (9)Who to arrest and take to jail and (10)How much they will help people with problems. (11)Clearly explain the reasons for their actions (12)Give honest explanations for their actions (13)Give people a chance to express their views before making decisions (14)Consider people's opinions when deciding what to do (15) Take account of people's needs and concerns (16)Treat people with dignity and respect (17)Respect people's rights (18)Sincerely try to help people with their problems (19)Try to find the best solutions for people's problems and (20)The NYPD treats citizens with courtesy and respect. Legitimacy scale operationalized as 'the perceived obligation to obey the directives of a legal authority and trust in the institution of policing'. For obligation, statements used were: (1)You should accept the decisions made by police, even if you think they are wrong (2)Communities work best when people follow the directives of the police (3)Disobeying the police is seldom justified and (4)It would be difficult for you to break the law and keep your self-respect. For trust in the institution of policing, Tyler and Sunshine used the following statements: (1)The police can be trusted to make decisions that are right for the people in your neighborhood (2) People's basic rights are well protected by the police in your neighborhood (3)The police in your neighborhood are generally honest (4)New York City has one of the best police forces in the United States (5)I am proud of the work of the NYPD (6)I am happy to defend the work of the NYPD when talking to my friends (7)I agree with many of the values that define what the NYPD stands for (8)I cannot think of another police force that I respect more than the NYPD and (9)The work of the NYPD encourages me to feel good about our city.]

<sup>144</sup> Tankebe (2009) [Using a five-scale (agreement) Likert-type measurement tool for both procedural justice and trustworthiness, statements used to measure perceptions on procedural justice and fairness were: (1)The police treat everyone with respect (2)The police treat everyone with dignity (3)The police treat everyone equally (4)The police respect people's rights (5)The police follow through on their decisions and promises they make ( $\alpha$  value=0.83, mean=2.57, s.d.=1.02), as well as (1)The Ghana police always act within the law (2)The police take account of the needs and concerns of people they deal with (3)The police sincerely try to help people with their problems (4)The police clearly explain the reasons for their actions (5)The police try to find the best solutions for people's problems (6)The police provide opportunity for unfair decisions to be corrected and (7)The police use rules and procedures that are fair to everyone. Tankebe Trustworthiness measurement was: (1)The Ghana police are trustworthy (2)I am proud of the police in Ghana (3)I have confidence in the Ghana police (4)The Ghana police are often dishonest (reversed) (5)The Ghana police are usually honest (6)The Ghana police always act within the law. ( $\alpha$  value=0.80, mean=2.55, s.d.=1.08).]

<sup>145</sup> Measuring trust is in fact a single item scale, looking at trust across different institutions. A similar scale is used by the Israel Central Bureau of Statistics (Public Confidence in Various Institutions, Bodies and Organizations) measurement tool. See for example, The 2015 survey available at: [http://www.cbs.gov.il/skarim/social\\_surv/quex\\_2015.pdf](http://www.cbs.gov.il/skarim/social_surv/quex_2015.pdf) (in Hebrew) (last retrieved in 2.1.2019).

Before proceeding, a note regarding the above stated measurement tools is in place. Indeed, it should be stated that the concept of measuring 'public's trust' is somewhat elusive. The various tools to measure it as developed in literature have been heavily criticized, first and foremost for the lack of definitive definition of 'trust' (or trustworthiness).<sup>146</sup> Furthermore, perceptions on fairness, legitimacy and commitment to justice – as their name suggests – represents the individual's perception, which is also somewhat of a vague concept; clearly, this entails the broader critique regarding the mere use of self-report surveys as a measuring tool.<sup>147</sup> With that said, for the lack of better alternatives and despite the difficulties associated with such tool, surveys it seems, are the dominant method for measuring public's opinions, perceptions and trust. Specifically, in adopting well established measurement scales, the study wished to further mitigate the difficulties described.

### **Social trust / Trust in and among community**

Being an highly studied concept, the importance of how to measure generalized trust has been the subject of many studies.<sup>148</sup> General Trust is often measured using a standard attitudinal trust question: "Generally speaking, would you say that most people can be trusted or that you need to be very careful in dealing with people?", accompanied by a dichotomous low-high trust choice – "You can't be too careful" and "Most people can be trusted". A general trust scale has been varied to include three-item questionnaire, with emphasis again being a 0-1 (low-high) selection.<sup>149</sup>  $\alpha$  Cronbach=.781

Such scale is clearly not free of problems, and has been criticized as somewhat vague, abstract, and hard to interpret. Most of all, the general scale suffered criticism due to the use of a dichotomous selection and not a several-point scales.<sup>150</sup> Despite the criticism, generalized trust survey questions were found to be a good predictor of the overall level of trustworthiness in

---

<sup>146</sup> Zucker, L. G. (1986). Production of trust: Institutional sources of economic structure, 1840–1920. *Research in Organizational Behavior*, 8, 53–111.

<sup>147</sup> Onora O'Neill. *A Question of Trust: The Bbc Reith Lectures 2002*. Cambridge University Press (2002); Prince, S. A., Adamo, K. B., Hamel, M. E., Hardt, J., Connor Gorber, S., & Tremblay, M. (2008). A comparison of direct versus self-report measures for assessing physical activity in adults: a systematic review. *The international journal of behavioral nutrition and physical activity*, 5, 56. doi:10.1186/1479-5868-5-56, Christine Kormos, Robert Gifford, The validity of self-report measures of proenvironmental behavior: A meta-analytic review, *Journal of Environmental Psychology*, Volume 40, 2014, Pages 359-371.

<sup>148</sup> Edward L. Glaeser, David I. Laibson, José A. Scheinkman, Christine L. Soutter; Measuring Trust, *The Quarterly Journal of Economics*, Volume 115, Issue 3, 1 August 2000, Pages 811–846; Tim Reeskens and Marc Hooghe. Cross-cultural measurement equivalence of generalized trust. Evidence from the European Social Survey (2002 and 2004). *Social Indicators Research: An International and Interdisciplinary Journal for Quality-of-Life Measurement*, 2008, vol. 85, issue 3, 515-532; Peter Thisted Dinesen, Where You Come From or Where You Live? Examining the Cultural and Institutional Explanation of Generalized Trust Using Migration as a Natural Experiment, *European Sociological Review*, Volume 29, Issue 1, February 2013, Pages 114–128, <https://doi.org/10.1093/esr/jcr044> .

<sup>149</sup> 1964 Election Study. Ann Arbor, Michigan: Inter-University Consortium for Political Research, University of Michigan; Hetherington, M. J. (1998). The political relevance of political trust. *The American Political Science Review*, 92, 791-808.; Yamagishi, T. (1986). The provisioning of a sanctioning system as a public good. *Journal of Personality and Social Psychology*, 51, 110-116.; Levi, M. & Stoker, L. (2000). Political trust and trustworthiness. *Annual Review of Political Science*, 3, 475-507.

<sup>150</sup> Lundmark, S., Gilljam, M., & Dahlberg, S. (2016). Measuring Generalized Trust: An Examination of Question Wording and the Number of Scale Points. *Public opinion quarterly*, 80(1), 26–43. doi:10.1093/poq/nfv042 ["a consensus has somewhat emerged that such concepts should be measured by several-point scales (Alwin and Krosnick 1991; Krosnick and Fabrigar 1997). By using longer rather than dichotomous scales, respondents' attitudes, which are believed to range latently along continuums, can be correctly assessed."]

society.<sup>151</sup> The scale has been accepted and widely used,<sup>152</sup> and “have shown strong test-retest stability at the aggregate level, high correlations with factors theoretically related to generalized trust, and seem to measure the same latent constructs across groups and countries“.<sup>153</sup>

Ridings et al.<sup>154</sup>, who studied trust in virtual communities’ settings, measured the disposition to trust based on a three-items seven-point agreement scale.<sup>155</sup> Disposition to trust, meaning a general (and not situation based) willingness to depend on others,<sup>156</sup> defines trust in members of a virtual community as ‘a belief with two dimensions—ability and benevolence / integrity’.<sup>157</sup> Disposition to trust has been found related to trust, and is especially relevant to the internet, where parties are in many cases unfamiliar with one another,<sup>158</sup> as is the case with virtual communities.<sup>159</sup> Though this scale was used to measure trust in the environment of the Internet (and virtual communities specifically), thus arguably having greater relevance to this study, I nonetheless decided not adopt it exclusively given that it is less prevalent in literature, compared with generalized trust scale.

This study thus combines the general standard attitudinal trust measurement with the disposition to trust approach, using a three-item five-Likert scale. Statement presented regard Trust (“most people can be trusted”), Honesty (“most people try to be fair”) and Helpfulness (“most of the time people try to be helpful”). By combining the above stated scales and using a several-point scale, this study wished to avoid the discussed downsides of each measurements and maximize the measurement’ reliability. In doing so, this study in fact adopted The Social Cohesion Radar measurement that examined trends in social cohesion in 34 different countries from 1989 to 2012<sup>160</sup> ( $\alpha$  Cronbach  $\geq$  0.903<sup>161</sup>). See survey questions in appendix A.

---

<sup>151</sup> Glaeser, Edward, David Laibson, Jose Scheinkman, and Christine Soutter. 2000. Measuring trust. *Quarterly Journal of Economics* 115(3): 811-846.

<sup>152</sup> Such measurement is used by the American General Social Survey (GSS), the World Values Survey institute (WVS) and the American National Election Studies (ANES).

<sup>153</sup> Measuring Generalized Trust An Examination of Question Wording and the Number of Scale Points. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4884812/>

<sup>154</sup> Ridings et. al (2002) 11(3-4); 271-295 [based on the model proposed by Gefen, D., 2000a. E-commerce: the role of familiarity and trust. *Omega* 28 (6), 725 – 737.]

<sup>155</sup> Items included by Riding trust scale: 1. I generally have faith in humanity 2. I feel that people are generally reliable 3. I generally trust other people unless they give me reason not to. Ridings et al. (2002).

<sup>156</sup> Kramer, 1999; McKnight et al., 1998

<sup>157</sup> Gefen, D., 2000. E-commerce: the role of familiarity and trust. *Omega* 28 (6), 725 – 737, 728 [“Disposition to trust is a general, i.e. not situation specific, inclination to display faith in humanity and to adopt a trusting stance toward others. The former inclination deals with the belief that people in general are trustworthy; the latter deals with the belief that better results will be obtained by giving people credit and trusting them, regardless of whether this trust is justified. This tendency is not based upon experience with or knowledge of a specific trusted party, but is the result of an ongoing lifelong experience and socialization.”]

<sup>158</sup> Mayer, Roger C., James H. Davis, and F. David Schoorman. "An integrative model of organizational trust." *Academy of Management Review*, 20: 709-734. (1995); Rotter, J. B. (1971). Generalized expectancies for interpersonal trust. *American Psychologist*, 26(5), 443-452.

<sup>159</sup> Gefen (2000).

<sup>160</sup> Social Cohesion Radar Measuring Common Ground. An International Comparison of Social Cohesion. Bertelsmann Stiftung (2013). Available at: [https://www.bertelsmann-stiftung.de/fileadmin/files/BSt/Publikationen/GrauePublikationen/GP\\_Social\\_Cohesion\\_Radar.pdf](https://www.bertelsmann-stiftung.de/fileadmin/files/BSt/Publikationen/GrauePublikationen/GP_Social_Cohesion_Radar.pdf) (last visited 7/10/2018) [similarly to this study, Social Trust Index was composed of three indicators – Trust, Honesty and Helpfulness]

<sup>161</sup> Social Cohesion Radar Measuring Common Ground An international Comparison of Social Cohesion Methods Report. [http://aei.pitt.edu/74134/1/Social\\_cohesion\\_radar.pdf](http://aei.pitt.edu/74134/1/Social_cohesion_radar.pdf)

## **Control variables – Demographics**

Aside from the main factors (perceptions on procedural justice, trust in institutions, normative commitment to justice and trust in community) additional factors are examined, including Demographics, Prior Involvement with Authorities, FIS (Facebook Intensity Scale), Fear of Crime.

### **Demographics**

Standard demographic questions that were asked include – age, ethnicity, education, religion, political views and income. See question in Survey in appendix A.

### **Prior Involvement with Authorities**

Survey asks about prior involvement with the Israeli Police and Courts. For those who answered positively, appears a follow-up question on levels of satisfaction with treatment received by the Police and/or Courts, on a five-item (5) Likert scale. See question in Survey in appendix A.

### **FIS (Facebook Intensity Scale) – Social Media involvement index**

Despite the known limitations to self-reports, which have been reported to apply specifically to internet-use self-reporting,<sup>162</sup> and considering the difficulties in collecting log data of actual social media usage, the study rely on self-reported measures of social media use. The scale used to operationalize involvement with social media is one of the most widely accepted and used, the Facebook Intensity Scale (FIS), developed by Ellison et al. Thought another, arguably more rigorous scale has been offered since Ellison in 2007<sup>163</sup>, for this study, the component of intensity of use which is found in Ellison FIS scale, and the fact it was applied directly to the platform of Facebook, is of special importance and has thus been selected for this study. Ellison FIS scale is consistent of a behavioral assessment: (1) self-reported number of friends on Facebook and (2) intensity of use - time spent on the platform, as well as a six-item (6) Likert scale (agreement) of attitudinal assessment<sup>164</sup> (Ellison Cronbach's alpha = 0.83, mean -0.08, SD 0.79).

---

<sup>162</sup> There is a substantial body of research indicating some inaccuracies and biases in self-reported measures of social media use. See for example R. Junco. Comparing actual and self-reported measures of Facebook use. *Computers in Human Behavior*, 29 (3) (2013), pp. 626-631 [Concluding that there is over-reporting; actual Facebook use (26 min/day) was significantly lower than self-reported use (145 min).]; See also M. Scharnow. The accuracy of self-reported Internet use—a validation study using client log data *Communication Methods and Measures*, 10 (1) (2016), pp. 13-27 [finding both over and underreporting when comparing actual and self-reports]; M. Scharnow. The accuracy of self-reported Internet use—a validation study using client log data *Communication Methods and Measures*, 10 (1) (2016), pp. 13-27; see Leif Sigerson, Cecilia Cheng. Scales for measuring user engagement with social network sites: A systematic review of psychometric properties. *Computers in Human Behavior* 83, 87-105 (June 2018) [systematic psychometric review of social network site engagement' scales].

<sup>163</sup> Jenkins-Guarnieri et al., 2013 M.A. Jenkins-Guarnieri, S.L. Wright, B. Johnson Development and validation of a social media use integration scale *Psychology of Popular Media Culture*, 2 (1) (2013), pp. 38-50 [based on FIS, the Social Media Use Integration Scale (SMUIS) presents a ten-item Likert-type scale measuring the emotional attachment to using social media as well as how integrated social media is into the social habits of users.]

<sup>164</sup> Ellison et al., 2007 N.B. Ellison, C. Steinfield, C. Lampe. The benefits of facebook "friends:" Social capital and college students' use of online social network sites *Journal of Computer-mediated Communication*, 12 (4) (2007), pp. 1143-1168 [Heavily cited study that examined the association between Facebook engagement and social capital; the FBI scale includes in total eight (8) questions: (1) self-reported number of friends on Facebook and (2) time spent on the platform and a six-item attitudinal assessment: (1) Facebook is part of my everyday activity (2) I am proud to tell people I'm on Facebook (3) Facebook has become part of my daily routine (4) I feel out of touch when I haven't logged onto Facebook for a while (5) I feel I am part of the Facebook community (6) I would be sorry if Facebook shut down].

The measurement used to operationalize intensity of Facebook use is six-item Likert scale of attitudinal assessment<sup>165</sup>, Cronbach's alpha=.840. See question in Survey in appendix A.

### **Fear of Crime**

Considering its effect on tendency to support self-help as well as impact attitude towards formal law enforcement, the study examines fear of crime as an explaining factor. Recent studies established a wide agreement that fear of crime should be defined and conceptualized as both the emotional response to crime along with the perceived risk (likelihood of victimization). Nonetheless, the scale for measuring fear of crime remains debated; whereas less updated tools used a simple non-specific single-item measurement,<sup>166</sup> recent studies use a multiple-item scales, capturing the various dimensions of fear of crime, i.e., the emotional component and perceived risk, while integrating crime-location specific questions and an intensity scale.<sup>167</sup> Considering the described concerns with regard to a non-specific single-item tool, the scale used to operationalize fear of crime is based on the widely cited scale as constructed by Ferraro<sup>168</sup> (fear index  $\alpha$  Cronbach = 0.90; perceived risk index  $\alpha$  Cronbach = 0.87.) The

The selected scale includes a total of six-item<sup>169</sup> including emotional component (“how worried are you about”) and perceived risk (“how likely are you”) of being: (1) Being approached on the street by a burglar (2) Having someone break into your home (3) Being physically attacked. Overall  $\alpha$  Cronbach = 0.880. See Survey in appendix A.

---

<sup>165</sup> Data on number of friends and hours spent on Facebook (behavioral assessment) was also collected and though not integrated into the attitudinal assessment due to high similarity score among the scales.

<sup>166</sup> This measure often refers to a question such as “How safe do you feel or would you feel being out alone in your neighborhood at night?”. See Ferraro, K. F. and Grange, R. L. (1987), *The Measurement of Fear of Crime*. *Sociological Inquiry*, 57: 70-97; Baumer 1985; Taylor and Covington 1993; see also Oxford Encyclopedia <http://criminology.oxfordre.com/view/10.1093/acrefore/9780190264079.001.0001/acrefore-9780190264079-e-10> [discussing literature that deployed measurements that lacked specificity (non crime nor location specific) and intensity (non scale questions).]

<sup>167</sup> Farrall, S., Jackson, J., & Gray, E. (2009). *Social order and the fear of crime in contemporary times*. Oxford: Oxford University Press, Clarendon Studies in Criminology; Ferraro, Kenneth. 1995. *Fear of Crime: Interpreting Victimization Risk*. New York: State University of New York Press; Jonathan Jackson. *Validating New Measures of the Fear of Crime*. *International Journal of Social Research Methodology* 8(4) (2005); Warr, M. (2000). *Fear of Crime in the United States : Avenues for Research and Policy* by Mark Warr; Warr, M., & Stafford, M. (1983). *Fear of victimization: A look at the proximate causes*. *Social Forces*, 61(4), 1033–1043. <https://doi.org/10.2307/2578277> .

<sup>168</sup> Ferraro, Kenneth. 1995. *Fear of Crime: Interpreting Victimization Risk*. New York: State University of New York Press. For an elaborated read on measurements see Ferraro, K. F., & LaGrange, R. L. (1987). *The measurement of fear of crime*. *Sociological Inquiry*, 57, 70–101.

<sup>169</sup> The study originally also included a single-item measurement, that was eventually overlooked: “On a 1 to 10 scale (1=not at all, 10=very much so), how safe do you feel or would you feel being out alone in your neighborhood at night”? See Survey in appendix A.

## RESULTS

### *Demographics:*<sup>170</sup>

Initial panel of respondents was of 452 social media users. Among those, 450 successfully completed the survey and met demographic criteria (Israeli citizens) and screening questions (having an active Facebook account).<sup>171</sup>

48% of the sample are female, with males accounting for 52%. 5.3% of respondents were aged between 18-24, 33.1% 25-34, 30.2% in the ages of 35-44, 7.7% 45-54, 15.3% between 55-64, with mature population accounting for 8.2% of the sample population (over 65). As for education, 5.3% had no diploma, 10.9% completed high school diploma, 83.8% had an academic degree (bachelor or higher.) 95.8% of the sample are Jewish; 77.6% define themselves as secular and 22.4% as religious to some extent. 74.4% of the sample population are married (with 25.6% never-married – divorced or widowed.) 68.5% of the population declared income that is above average (above 14,500 Israeli Shekels). 27.6% identified themselves politically as left-wing, 31.3% as right-wing, 41.1% as center.

**Figure 1: Demographics frequencies table**

		Frequency	Percent	Cumulative Percent
Age	18-24	24	5.3	5.3
	25-34	149	33.1	38.4
	35-44	136	30.2	68.6
	45-54	35	7.7	76.4
	55-64	69	15.3	91.7
	over 65	37	8.2	100
Gender	Male	234	52.0	52.0
	Female	216	48.0	100.0

<sup>170</sup> Compare with the general demographics of U.S Social Media users (and Facebook in particular) according to Pew report of 2018, at: <https://www.pewinternet.org/fact-sheet/social-media/>

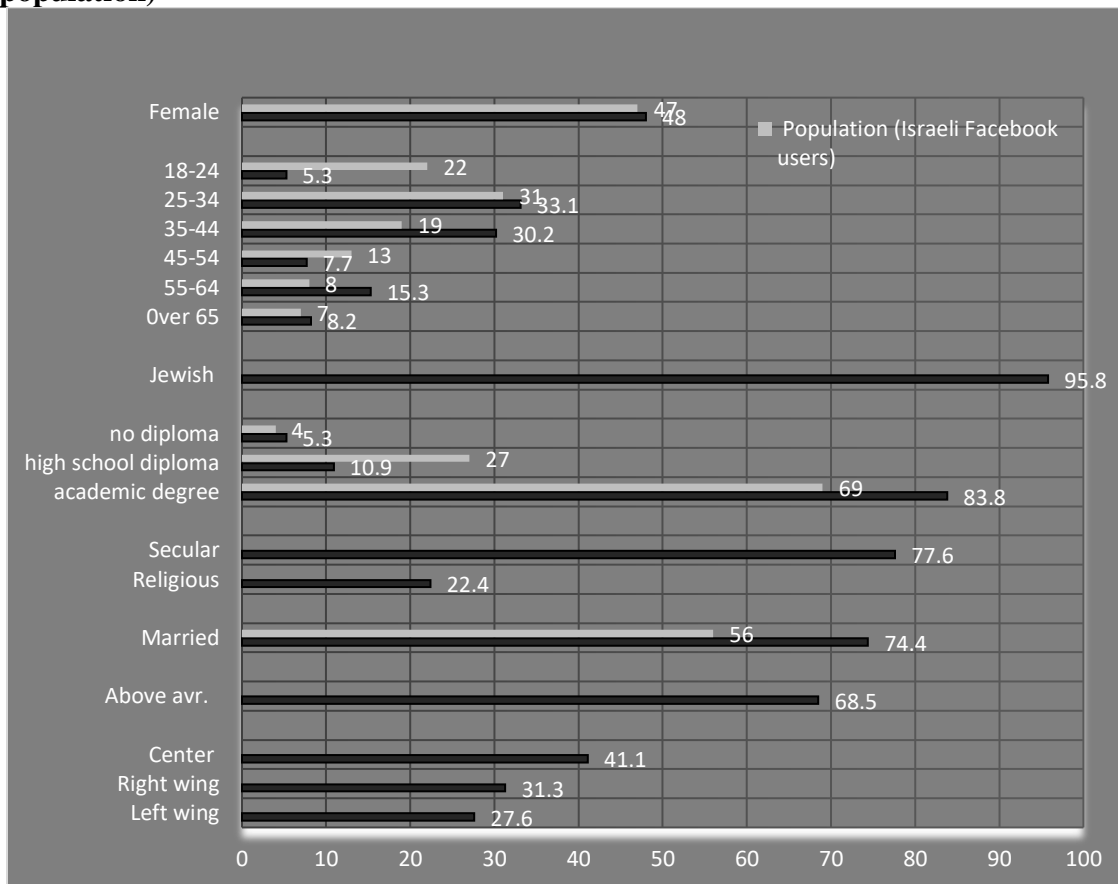
<sup>171</sup> Conducting the survey in online settings, and while not necessarily random sample in its statistical sense, it is argued to be indicative of the Israeli adult society who are engaged on social media, given the sample size, its similarity to the described population the fact it is diversified.

	Total	450	.0	
Education	no high-school diploma	24	5.3	5.3
	high-school diploma	49	10.9	16.2
	academic	377	83.8	100.0
	Total	450		
Religion	Jewish	431	95.8	95.8
	Other (non-Jewish)	19	4.2	100.0
	Total	450		
Religiousness	Secular	349	77.6	77.6
	Masorti (“traditional”)	59	13.1	90.7
	Religious	42	9.3	100.0
	ultra-Orthodox	0	0	100.0
	Total	450		
Family Status	Married	335	74.4	74.4
	Not-Married (single, divorced, widowed)	115	25.6	100.0
	Total	450		

Political view	Right	141	31.3	31.3
	Left	124	27.6	58.9
	Center	185	41.1	100.0
		450		

The demographics of the sample was compared with recent data on the general population of Facebook users in Israel as can be seen in figure 2.

**Figure 2: Sample population demographics (compared with Israel Social Media Users population)**



**Gender**



In the sample, 48% are female, with males accounting for 52%. According to an updated survey of 2018, among Facebook users in Israel, 47% of Facebook Users are women, 53% are men.<sup>172</sup>

## Age

5.3% of sample respondents were between the ages of 18-24, 33.1% 25-34, 30.2% in the ages of 35-44, 7.7% 45-54, 15.3% between 45-54, with mature population accounting for 8.2% of the sample population (over 65). According to an updated survey of 2018,<sup>173</sup> among Facebook users in Israel, Ages split as follow: about 22% ages 18-24; 31% are of ages 25-34; 19% 35-44; 13% 45-54; 8% ages 55-64; 7% over 65.

## Education

As for education, 5.3% of the sample had no diploma, 10.9% completed high school diploma, 83.8% had an academic degree (bachelor or higher.) According to an updated survey of 2018,<sup>174</sup> among Facebook users in Israel, 4% elementary; 27% high school diploma; 69% university degree.

## Religion

95.8% of the sample are Jewish; 77.6% define themselves as secular and 22.4% as religious to some extent. While there I could not locate data on religion among Israeli Facebook users, according to a 2016 survey by ISOC only 22% of the Arab population are engaged with social media (overall, Internet penetration rate among Arab population is 71%, among which 32% use *social media*.)<sup>175</sup>

## Religiousness

77.6% of sample define themselves as secular. 13.1% as Masorti (“traditional”) and 9.1% as religious. 0% ultra-Orthodox. No data was found on religiousness among Israeli Facebook users, but a 2016 survey by ISOC found only 11% of ultra-orthodox are engaged with social media (overall, Internet penetration rate among ultra-orthodox population is 49%, among which 24% use *social media*.)<sup>176</sup>

## Family statutes

---

<sup>172</sup> <https://www.fialkov.co.il/facebook/infographic-facebookisrael-2018/>

<sup>173</sup> <https://www.fialkov.co.il/facebook/infographic-facebookisrael-2018/>

According to Ministry of Economy report of 2014, 7% of Facebook users in Israel are 13-15; 9% are 16-17; 28% are 18-24; 26% 25-34; 14% 35-44; 8% 45-54; 5% 55-64; 3% are over 65. Ofrit Kol & Dr. Azi Lev-On. Online Social Networks and Purchase Decision Making. Israel Ministry of Economy report (2014), p. 31.

<sup>174</sup> <https://www.fialkov.co.il/facebook/infographic-facebookisrael-2018/>

According to Ministry of Economy report of 2014, 7% of Facebook users in Israel are 13-15; 9% are 16-17; 28% are 18-24; 26% 25-34; 14% 35-44; 8% 45-54; 5% 55-64; 3% are over 65. Ofrit Kol & Dr. Azi Lev-On. Online Social Networks and Purchase Decision Making. Israel Ministry of Economy report (2014), p. 31.

<sup>175</sup> <https://www.isoc.org.il/sts-data/11214>

<sup>176</sup> <https://www.isoc.org.il/sts-data/11216>

74.4% of the sample population are married. According to an updated survey of 2018,<sup>177</sup> among Facebook users in Israel, 56% marriage; 44% single/in a relationship.

## Income

According to Israel Central bureau of statistics, the average income per household in Israel in 2015 was 14,470 Israeli Shekels.<sup>178</sup> 35.5% of sample declared an income that is below average, 68.5% above average. No data on Israeli Facebook users by income but a 2014 survey among 1052 Israelis by Collman Academic Center found Social Media usage more prevalent among those with average income, compared with those having higher or lower income.<sup>179</sup>

## Political view

Of the sample, 27.6% identified themselves politically as left-wing, 31.3% as right-wing, 41.1% as center. No available data on political views among Israeli Facebook users.

## Correlations:

Before proceeding with the regression analysis, a correlation analysis was conducted to determine if there are cases of relationships among variables, which might also indicate problems of multicollinearity. As Shown in figure 3 and as expected, perception of fairness, trust in institutions and normative commitment to law, were all found *negatively* correlated with support of e-vigilantism. Social trust was also found significant, but surprisingly, also having a negative relation to support of e-vigilantism.

**Figure 3: prec. Of Fairness, Trust (in institutions), Normative commitment and Trust (social), correlation with support of e-vigilantism**

		Prec. Of Fairness	Trust Inst.	Norm Commit.	Social Trust
<b>Support of e-vigilantism</b>	Pearson Correlation	-.168**	-.166**	-.260**	-.192**
	Sig. (2-tailed)	.000	.000	.000	.000
	N	450	450	450	450

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).

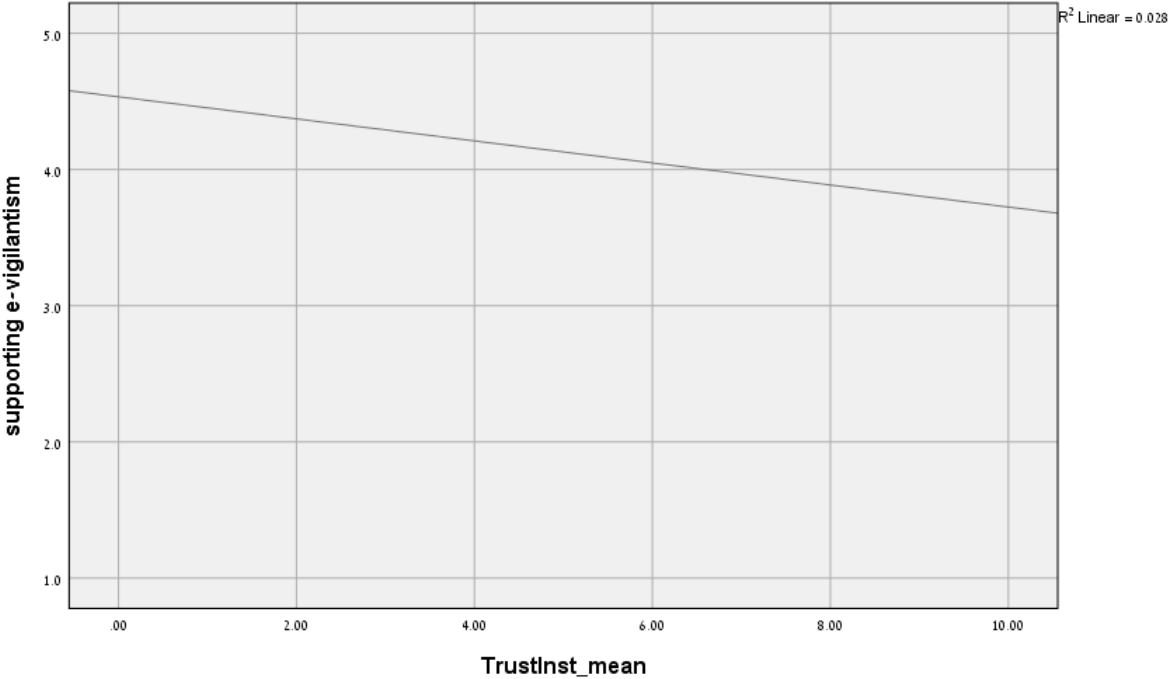
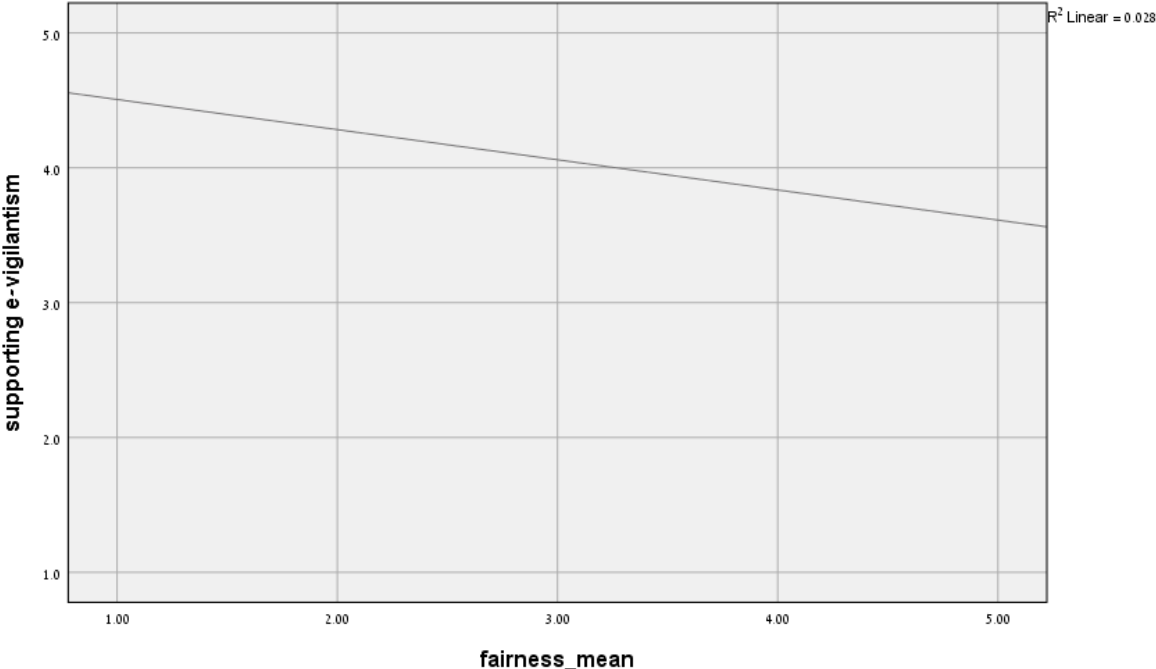
<sup>177</sup> <https://www.fialkov.co.il/facebook/infographic-facebookisrael-2018/>

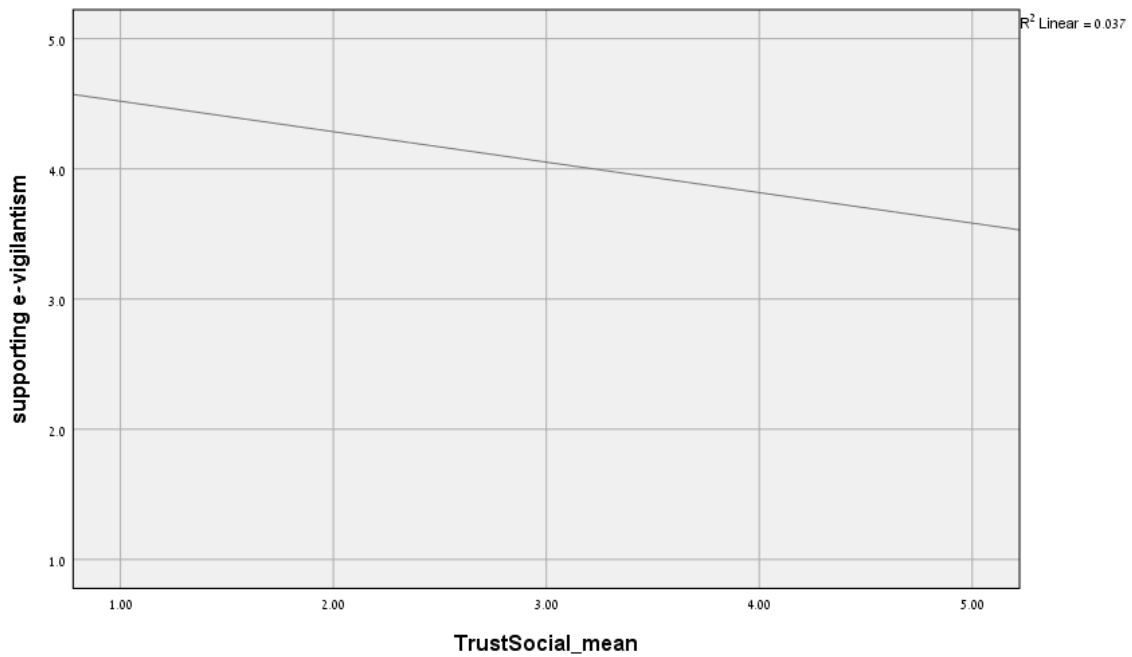
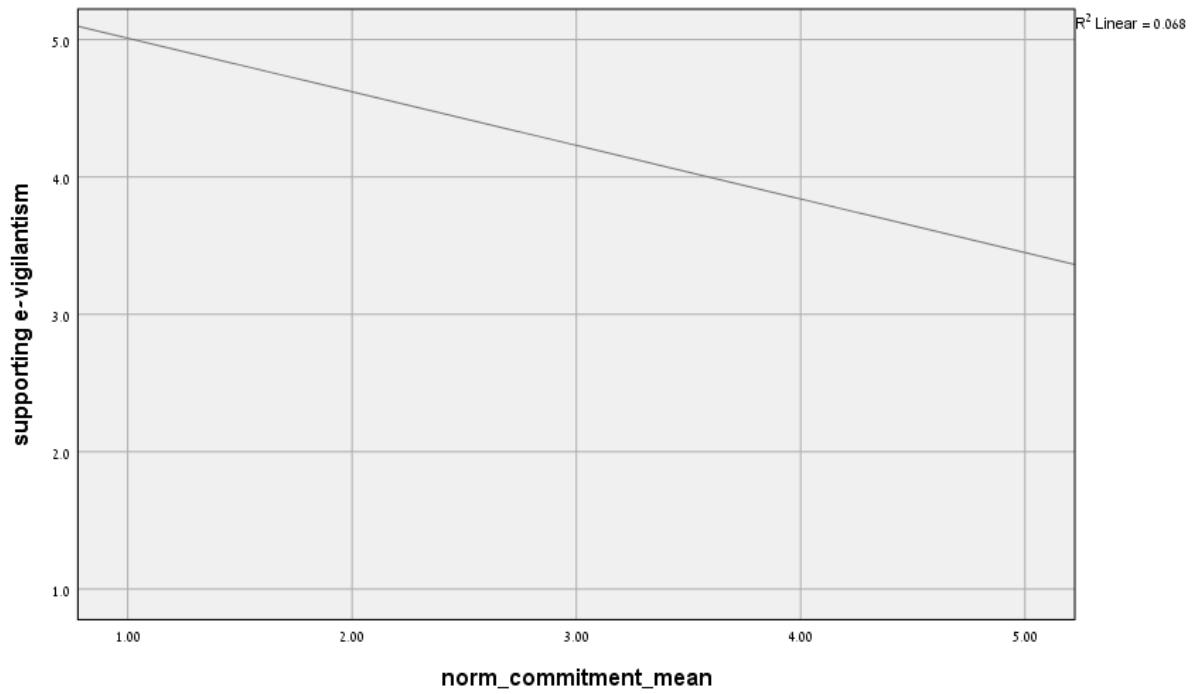
According to Ministry of Economy report of 2014, 7% of Facebook users in Israel are 13-15; 9% are 16-17; 28% are 18-24; 26% 25-34; 14% 35-44; 8% 45-54; 5% 55-64; 3% are over 65. Ofrit Kol & Dr. Azi Lev-On. Online Social Networks and Purchase Decision Making. Israel Ministry of Economy report (2014), p. 31.

<sup>178</sup> [http://www.cbs.gov.il/publications17/1677/pdf/intro\\_h.pdf](http://www.cbs.gov.il/publications17/1677/pdf/intro_h.pdf)

<sup>179</sup> 86% of those with average income found using Social Media, compared with 73% and 74% among lower or higher income, accordingly <http://din-online.info/pdf/dig.pdf> page 30

**Figure 4 (graph): prec. Of Fairness, Trust (institutional), Normative commitment and Trust (social), effect on support of e-vigilantism**





**Figure 5: Other factors and support of e-vigilantism – correlations**

		Gender	Age	Education	Involvement with authorities in past two years (satisfaction - polices)	Involvement with authorities in past two years (satisfaction - courts)
<b>Support of e-vigilantism</b>	Pearson Correlation	.022	-.101*	-.150**	-.254**	-.217*
	Sig. (2-tailed)	.634	.032	.001	.003	.040
	N	450	450	450	137	90

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).

		FB_Intensity	FB_friends	FB_minutes	Fear of Crime walking (single)	Fear of Crime
<b>Support of e-vigilantism</b>	Pearson Correlation	.100*	.099*	.124**	-.015	-.034
	Sig. (2-tailed)	.033	.035	.008	.752	.469
	N	450	450	450	450	450

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).

***Hierarchical Linear Regression – Multivariate Analysis***

The data was analyzed using Hierarchical Linear Regression, the purpose of which is to determine the effect that each independent variable had on the outcome variable (support of e-vigilantism) while controlling for other variables in the model. Figure 6 presents results from regression models that include various variables. Model 1 includes socio-economic demographics – gender, age, education, income, and prior experience with police and courts. Results show that prior experience with Police and Education were each significant predictor of support for e-vigilantism; meaning, the more educated ( $\beta = -.141, p < .01$ ) and satisfied with prior experience with the police ( $\beta = -.132, p < .01$ ) one was, the less likely to support e-vigilantism. The variance accounted for by the first model was 5.1%.

In Model 2 additional variables were incorporated in the regression equation, including the four main variables – perceptions of fairness (Fairness\_mean); trust in institutions (TrustInst\_mean); social trust (TrustSocial\_mean) and normative commitment to law (norm\_commitment\_mean), in addition

to fear of crime (FearofCrime\_mean) and intensity of Facebook use – attitudinal assessment (FB\_Intensity\_mean). Normative commitment to law and Social trust were found to be significant predictors of supporting e-vigilantism; specifically, as theorized, the higher the commitment to law is ( $\beta = -.223, p < .001$ ), the less supportive of e-vigilantism. Social trust ( $\beta = -.150, p < .01$ ) was also found having a significant predictor, surprisingly a reverse effect, meaning, those with higher perceptions of solidarity and social trust, less likely to support a social act of e-vigilantism. The effect of education ( $\beta = -.150, p < .01$ ), remained statistically significant. Model 2 contributed 8.6% to the explained variance, and so altogether, the regression accounted for 13.7% of the variance.

**Figure 6: Determinants of Support for e-vigilantism among Israeli Facebook users:**

Independent variables	Model 1	Model 2
Gender	.011	.026
Age	-.091	.019
Education	-.141**	-.108*
Income	.041	.033
Police	-.132**	-.073
Court	.031	.047
Fairness_mean		-.039
Trust_Inst_mean		-.034
Trust_Social_mean		-.150**
Fear_of_Crime_mean		-.035
FB_Intensity_mean		.096
Normmative_commit_mean		-.223***
R <sup>2</sup>	.051	.137
R <sup>2</sup> $\Delta$	.051	.086

\* $p < .05$ ; \*\* $p < .01$ ; \*\*\* $p < .001$

Results show that neither perceptions of fairness nor trust in institutions had a significant effect on supporting e-vigilantism according to Model 2. Yet given that both were found having significant correlation with support of e-vigilantism, multicollinearity is suspected, and additional Models are tested as can be seen in Figure 7. Indeed, when excluding trust institutions and normative commitment, both perceptions of fairness ( $\beta = -.139, p < .01$ ) and social trust ( $\beta = -.154, p < .01$ ) were found significant predictors of e-vigilantism (Model 5). Also, when excluding perceptions of fairness and normative commitment, both trust in institutions ( $\beta = -.117, p < .05$ ) and social trust ( $\beta = -.152, p < .01$ ) were found significant (Model 8.) This potentially indicates a strong association between normative commitment, perceptions of fairness and institutional trust, and that normative commitment might be predicted from the other variables which are therefore not showing in Model 2.

**Figure 7: Determinants of Support for e-vigilantism among Israeli Facebook users:**

Independent variables	Model 3	Model 4	Model 5	Model 6	Model 7	Model 8
Gender	.024	.069	.009	.010	.009	.016
Age	-.096*	.017	-.023	-.022	-.052	-.029
Education	-.152**	-.130**	-.148**	-.146**	-.159***	-.140**
Income	.051	.045	.044	.046	.038	.058
Fairness_mean	---	-.067	-.139**	-.113	-.116	---
Trust_Inst_mean	---	---	---	-.037	-.064	-.117*
Trust_Social_mean	---	-.155***	-.154**	-.151**	---	-.152**
Fear_of_Crime_mean	---	-.061	-.073	-.070	-.050	-.061
Normmative_commit_mean	---	-.233***	---	---	---	---
R <sup>2</sup>	.034	.123	.081	.081	.062	.076
R <sup>2</sup> Δ						

\*p<.05; \*\*p<.01; \*\*\*p<.001

Additional Models were tested among different parts of the sample population, specifically, among those with (and without) prior involvement with police and courts. For those having prior involvement with authorities, trust in institutions ( $\beta = -.223$ ,  $p < .05$ ;  $\beta = -.407$ ,  $p < .05$ ) was found a significant predictor of support of e-vigilantism. Notably, trust in institutions was not found significant among those with no prior involvement with authorities. Contradictory, intensity of Facebook use ( $\beta = .142$ ,  $p < .05$ ;  $\beta = .155$ ,  $p < .01$ ) was found a significant predictor of support of e-vigilantism only among those with no prior involvement with authorities.

<b>Independent variables</b>	<b>Model 9 (Prior Police)</b>	<b>Model 10 (No Prior Police)</b>	<b>Model 11 (Prior Court)</b>	<b>Model 12 (No Prior Court)</b>
Gender	.018	.042	.060	.029
Age	.056	.012	.163	-.014
Education	-.197*	-.106	-.172	-.100
Income	.014	.029	-.001	.038
Police	---	---	---	---
Court	.211*	-.064	---	---
Fairness_mean	-.077	-.034	.201	-.134
Trust_Inst_mean	-.223*	.090	-.407*	.116
Trust_Social_mean	-.067	-.184**	-.142	-.142**
Fear_of_Crime_mean	-.047	-.034	-.217*	.019
FB_Intensity_mean	-.022	.142*	-.026	.155**
Normmative_commit_mean	-.236*	-.239***	-.164	-.262***
R <sup>2</sup>	.269	.112	.302	.144
R <sup>2</sup> Δ				

\*p<.05; \*\*p<.01; \*\*\*p<.001



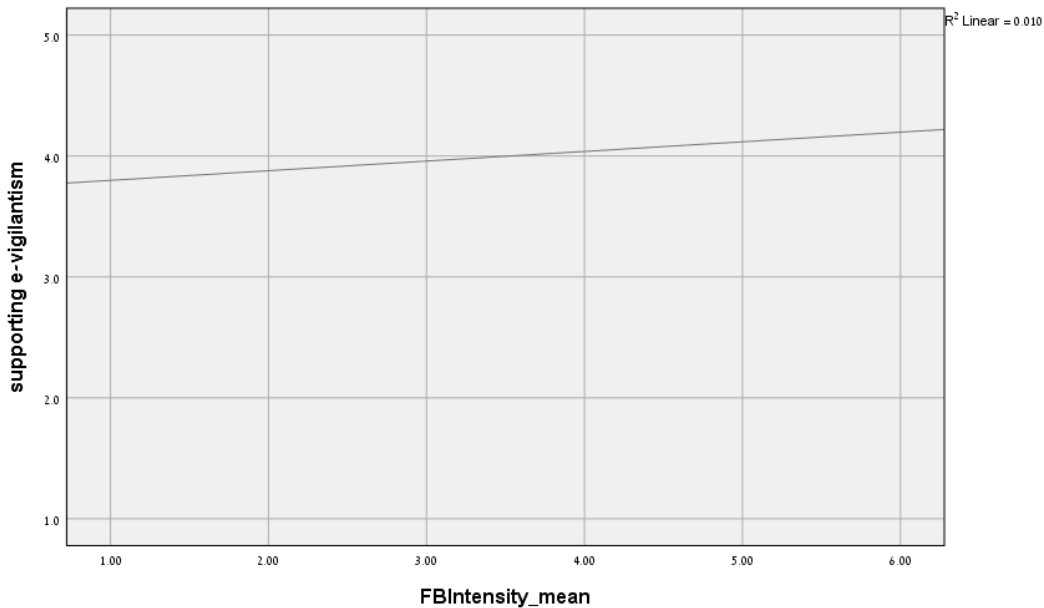
To further assess if intensity of Facebook use (behavioral assessment) is a predictor for support of e-vigilantism, a Univariate Analysis of Variance (figure 9) was conducted and indeed, statistically significant differences were found; levels of support of e-vigilantism were significantly lower among those who spent less than an hour a day on Facebook (M=3.94, SD=0.86), compared with those who spent more than an hour (M=4.11, SD=0.90).  $F(1,448) = 4.33, p < .05, \eta^2 = .01$  ;  $F(2,484) = 12.47, p < .001, \eta^2 = .05$  Nonetheless, the effect size of the differences was found low, with time spent on Facebook accounting for only 1% of the difference.

**Figure 8: Intensity of Facebook use (FIS - attitudinal assessment) correlation with support of e-vigilantism**

		intensity of Facebook use
<b>Support of e-vigilantism</b>	Pearson Correlation	.100*
	Sig. (2-tailed)	.033
	N	450

\*\* . Correlation is significant at the 0.01 level (2-tailed).

\* . Correlation is significant at the 0.05 level (2-tailed).



**Figure 9: Univariate Analysis of Variance: intensity of Facebook use (FIS – behavioral assessment) and support of e-vigilantism Between-Subjects Factors**

	N	
FBminutes2	1.00	249
	2.00	201

**Descriptive Statistics**

Dependent Variable: support of e-vig

FBminutes2	Mean	Std. Deviation	N
1.00	3.946	.8614	249
2.00	4.119	.9018	201
Total	4.023	.8829	450

**Tests of Between-Subjects Effects**

Dependent Variable: support of e-vig

Source	Type III Sum of Squares	df	Mean Square	F	Sig.	Partial Squared	Eta
Corrected Model	3.353 <sup>a</sup>	1	3.353	4.333	.038	.010	
Intercept	7234.553	1	7234.553	9349.653	.000	.954	
FBminutes2	3.353	1	3.353	4.333	.038	.010	
Error	346.652	448	.774				
Total	7634.250	450					
Corrected Total	350.005	449					

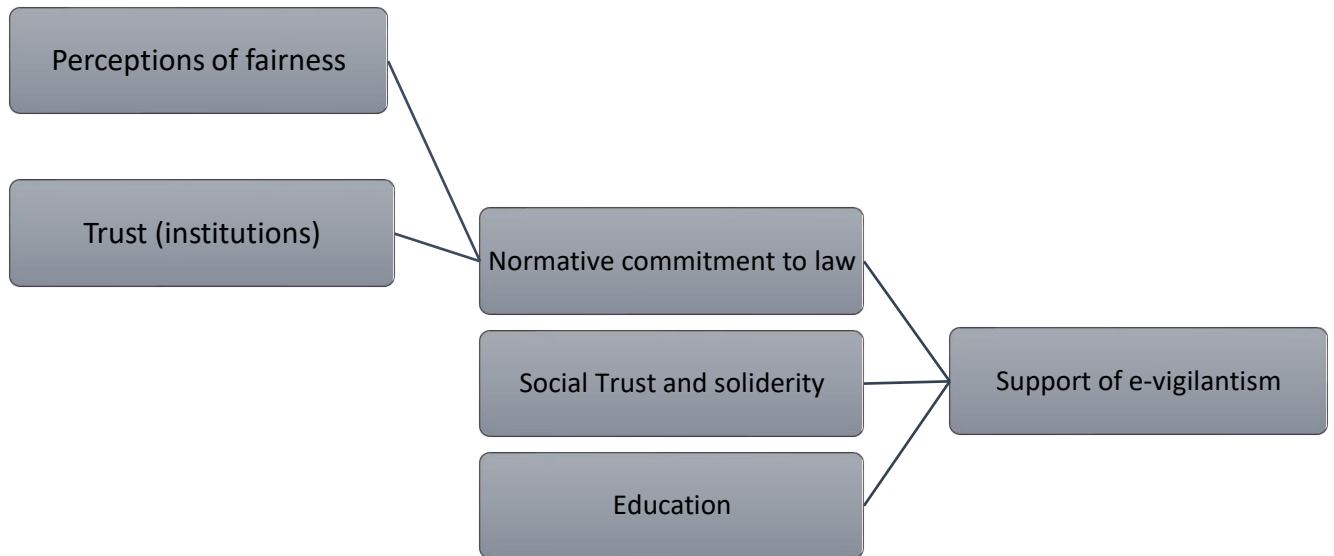
a. R Squared = .010 (Adjusted R Squared = .007)

## DISCUSSION

This study sought to trace the prevalent phenomena of online vigilantism as an act of self-help among Israeli Facebook users, and explore some of the factors that might explain it. Statistically significant correlations were found between four main variables and support of e-vigilantism. As hypothesized, trust in institutions (*H1*), perceptions of fairness (*H2*) and normative commitment to law (*H3*) were all found negatively correlated with support of e-vigilantism. Meaning, the more one **trusts** formal law authorities, perceives authorities as acting in a **fair manner**, and is **committed** to formal law – the less likely one is to support an act of e-vigilantism via social media. These findings align with literature on trust, compliance and self-help and illustrate its applicability to the online sphere, particularly, e-vigilantism. Social trust was found *negatively* (and not positively as anticipated, *H4*) correlated with support of e-vigilantism, meaning, the higher the sense of solidarity and social trust – the less likely one is to support an act of e-vigilantism via social media. This aligns with Sampson et al. finding social cohesion linked with reduced violence (Sampson et al. 1997).

According to regression results (Model 2), support of e-vigilantism was predicted by normative commitment to law and social trust, both having negative relationships with support of e-vigilantism. Interestingly, when tested only among those with prior involvement with authorities, trust in institutions was found a significant predictor of support of e-vigilantism, the two having a negative relationship; Meaning, the less satisfied one was with authorities in previous encounters, the more likely to support e-vigilantism (Models 9, 11).

However, and contrary to studies suggesting a link between procedural justice and e-vigilantism, neither trust in institutions nor perceptions of fairness were significant predictors of support for vigilantism (Model 2.) A possible explanation is multicollinearity; As can be inferred from Models 5 and 8 (excluding any two of the four main variables resulted in the other two becoming predictive) there could be a strong association between normative commitment, perceptions of fairness and institutional trust, resulting in normative commitment ‘masking’ other factors, that are therefore not showing in the main model (Model 2.)



Another potential explanation for trust in institutions and perceptions of fairness not being predictors of e-vigilantism as self-help is within the critique of the procedural justice model itself; as discussed above, some show that substantive justice – rather than procedural – is the dominant factor in evaluating satisfaction with formal law enforcement and support of self-help. This approach seems to align with the findings, especially given the dominance of normative commitment to law as a predictive factor.

Another finding worth noting is the *negative* relationship between social trust and support of e-vigilantism, whereas a positive relationship was assumed based on literature showing community trust directly linked with increased willingness to resort to self-help. Looking back at the criticism on the ‘trust narrative’ presented above, indeed it seems that trust does not necessarily mean cooperative group behavior, let alone a violent one.<sup>180</sup> This result can be further explained by the fact that social trust indeed go hand in hand with support of democracy<sup>181</sup>, which constitutes reliance on formal law authorities and rule of law, rather than self-help. Lastly, it is interesting to note that education was found a significant predictor throughout all Models (negative relationship), which might be explained by the fact that education fosters democratic values thus increasing the perceived importance of the rule of law.<sup>182</sup>

### Limitations

As in every research, there are limitations to this study, most of which have been discussed throughout the piece. First, it is uncertain the degree to which the results of the sample translate to the general population. Nonetheless, considering various factors (i.e., characteristics of social media use among Israelis – see discussion under “Subject population”), results are assumed to be

<sup>180</sup> See as discussed above Sampson, Robert J, Stephen Raudenbush Felton Earls. 1997. “Neighborhoods and Violent Crime: A Multilevel Study of Collective Efficacy.” *Science* 277: 918-924.

<sup>181</sup> See Putnam 1993; Uslaner 2002; Nannestad 2008.

<sup>182</sup> See Lipset (1959).

indicative of Israeli social media users if not the entire population. Second, as discussed in the methodology chapter, conducting a survey has its downsides, resulting from it being a non-observational approach. Lastly, as discussed, the act of sharing on social media is too complex to analyze from a ‘single’ factor stand-point. While sharing on social media oftentimes involves multiple, mixed reasoning, this study shows that attitudes towards e-vigilantism reflects – at least in part – users’ commitment to law, as being one of them. In doing so, this study expands the growing bridge between law and technology, contributes to empirical literature on trust, perceptions of justice and self-help, and suggests that e-vigilantism is a form of privatization of justice reinforced by technology.

### ***E-VIGILANTISM AND SHAME SANCTION IN VIEW OF PUNISHMENT THEORY***

Shame sanctions are argued to be inconsistent with punishment theory. Most notably, Nietzsche harshly criticized the “guilt culture” arguing that the truth behind a retributivist justification for punishment is the creditor’s “pleasure of being allowed to vent his power freely upon one who is powerless”.<sup>183</sup> Foucault adopts this Nietzschean understanding of the desire to punish as an inherent part of human nature; in his critic on the mere attempts to justify punishment in Western societies, Foucault expresses great suspicion towards the notion of 'humanizing punishment', arguing that the abandonment of brutal and public sanctions was not a rational, conscious act, rather a ‘technical’ shift from (brutal) penalizing the body to a (just-as brutal) penalizing the soul – wrapped with a self-deceiving notion of humanitarianism.<sup>184</sup>

Justification for shame sanctions can be found throughout the spectrum of punishment theories, on both utilitarian and retributivism grounds. The consequentialist school of thought justifies punishment when and only when, society may benefit from it. Deterrence, incapacitation and rehabilitation are all utilitarian rationales, providing justifications for punishment based on the logics of maximizing the common good, by either preventing future crimes by others or by the criminal himself, or by reintegrating the criminal into society again, respectively. Cesare Beccaria<sup>185</sup> and Jeremy Bentham,<sup>186</sup> thought as the founding fathers of the utilitarian approach to criminal punishment, considered shame sanctions an imperative.<sup>187</sup> Furthermore, the utility of shame sanctions has been recognized even by its greatest opponents.<sup>188</sup> Justification for shame

---

<sup>183</sup> Nietzsche, F. *On the Genealogy of Morals: A Polemical Tract*. Second Essay, Guilt, Bad Conscience and Related Matters. Section 5 (1887); Ernst Fehr and Simon Gächter. *Altruistic Punishment in Humans*. *Nature* 415, 137 (2002) [providing evidence that emotions are in fact a critical component of punishing others.]

<sup>184</sup> Foucault, M. *Discipline and Punish: The Birth of the Prison* (London: Peregrine, 1979).

<sup>185</sup> Cesare Beccaria. *On Crime And Punishment* (Aaron Thomas ed., Aaron Thomas & Jeremy Parzen) (Univ. of Toronto Press. 2008) (1764) [Beccaria rejects retributivism as the purpose of punishment, emphasizing deterrence and the maximization of common good instead. At page 26: “it is evident that the purpose of punishment is neither to torment and afflict a sentient being, nor to undo a crime already committed”]; for a similar reading of Beccaria’s work with regard to punishment theory see Mike C. Materni. *Criminal Punishment and the Pursuit of Justice*. *Brit. J. Am. Legal Stud.* 2, 263 (2013).

<sup>186</sup> Jeremy Bentham. *Theory of legislation* (C.K. Ogden ed., Fred B Rothman & Co. 1987) (1931).

<sup>187</sup> Whitman, at 1071-1072.

<sup>188</sup> Kahan (1996), at 638-641, 644-646, 649; See also Massaro, at 1890-1900 [despite the broad critic of shame sanction, Massaro concludes that shame sanctions can be justified on utilitarian basis].

sanctions can be also found in Kant<sup>189</sup> and Hegel<sup>190</sup> retributivist philosophy, which broadly cherishes the 'mystic bond between wrong and punishment'. Perceiving punishment as a "negation of a negation",<sup>191</sup> and the emphasis given to appropriating a punishment to the offender's moral culpability, in itself provides a justification for a punishment in the form public act of retaliation.<sup>192</sup>

John Braithwaite influential work on shaming offers a theoretical and empirical<sup>193</sup> framework for considering a "Reintegrative Shaming Theory" (RST). The RST main focus is on the social process of disapproval as *the* critical component in crime control via internalized controls mechanism.<sup>194</sup> According to this model, triggering the offender's emotion of shame will result in fear of disapproval or social lost and thus the understanding that certain behaviors are wrong, which will lead in turn to self-control. Notably, the theory defines a preset of conditions for a successful reintegrative process, inter alia, aiming shame towards the offense and not the offender and terminating the process with forgiveness.<sup>195</sup>

Shame sanctions were also discussed by thinkers arguing for the communicative role of punishment. In his essay, Feinberg describes punishment as having two faces – a 'physical' treatment aspect and a reprobative, symbolic function. As further argued, only an act accompanied by moral condemnation will fall within the scope of legal punishment.<sup>196</sup> Though differing in their

---

<sup>189</sup> While accepting that deterrence and rehabilitation might be 'side effects' of a punishment, according to Kant's theory, a punishment should depend on and vary according to an offender's guilt and type of crime, punishment is justified by retribution and justice is based on the *jus taliones* principle. Immanuel Kant. *The Philosophy of Law: An Exposition of the Fundamental Principles of Jurisprudence As the Science of Right* (trans. W. Hastie, The Lawbook Exchange, 2002)

<sup>190</sup> Georg Wilhelm Friedrich Hegel. *Elements of the Philosophy of Right* (Allen W. Wood ed., H.B. Nisbet trans., Cambridge Univ. Press, 1991) (1821).

<sup>191</sup> Oliver Wendell Holmes Jr. *The Common Law*. 42 (1881).

<sup>192</sup> Kant specifically discussed shame arguing that "For instance, a child who tells lies should not be punished, but shamed: it should feel ashamed, contemptible, nauseated as though it had been bespattered with dirt. By repeated doses of such treatment we can inspire the child with such an abhorrence of vice as will become in him a habitus. If, however, he is punished instead—say, at school—he thinks to himself that once out of school he runs no risk of being punished and he will also try by jesuitical tricks to escape punishment." Immanuel Kant. *Lectures on Ethics*, trans. Louis Infield, *The Library of Religion and Culture*, ed. Benjamin Nelson 46 (New York: Harper & Row, 1963) (1930).

<sup>193</sup> The theory is backed with extensive empirical evidence to support its effective over the traditional criminal justice process. For an initial read see Sherman, L., Strang, H., & Woods, D. *Recidivism patterns in the Canberra Reintegrative Shaming Experiments (RISE)*. Canberra, Australia: Centre for Restorative Justice, Australian National University (2000); Ahmed, E., Braithwaite J., *Forgiveness, Shaming, Shame and Bullying*, Australian & New Zealand Journal of Criminology 38, 298 (2005); Ahmed, E., N. Harris, J. Braithwaite and V. Braithwaite. *Shame Management through Reintegration* (Cambridge: Cambridge University Press, 2001); Tyler, Tom R., et al. *Reintegrative Shaming, Procedural Justice, and Recidivism: The Engagement of Offenders' Psychological Mechanisms in the Canberra RISE Drinking-and-Driving Experiment*, *Law & Society Rev.* 41, 553 (2007).

<sup>194</sup> Braithwaite, at 100 [according to Braithwaite, Shaming is defined as "all societal processes of expressing social disapproval which have the intention or effect of invoking remorse in the person being shamed and/or condemnation by others who become aware of the shaming".]

<sup>195</sup> Id. For a successful reintegrative shaming process, four conditions are to be met: 1) a process respectful of the offender in which shame is inflicted towards the offense and not the offender 2) a process terminated by forgiveness 3) a process that is not stigmatizing, meaning, that does not label the person as evil 4) existence of strong social bonds; an involvement of community members that have close connection to the offender, given that these social ties are of particular importance to the offender.

<sup>196</sup> Joel Feinberg, *The Expressive Function of Punishment*, in *Doing and Deserving: Essays in the Theory of Responsibility* 95 (1970).

perceptions of the moral limits of criminal law and punishment theory,<sup>197</sup> Hampton similarly argued for punishment's 'educational' dimension. The communicative role of punishment stands for the notion that members of society expect punishment not only to protect them from harm or danger, but also to express discontent with deviation from the norm. "In short, punishment expresses blame, and it is through this expression that we recognize certain actions as punishment."<sup>198</sup> In his influential defense of expressivism, Duff places great importance on the communicative role of a punishment on an offender, as a moral agent; a justified punishment is such that communicates to offenders the condemnation they *deserve* for their crimes. This communication process is meant to "persuade them to repent those crimes, to try to reform themselves and thus to reconcile themselves with those whom they wronged".<sup>199</sup> Without going into the moral, philosophical debate over the theory,<sup>200</sup> it is indisputable that shame sanctions, similarly to imprisonment<sup>201</sup> (and unlike some economic sanctions for example), communicates a forceful moral condemnation, thus composed of an expressive dimension.<sup>202</sup>

### **Motivations for supporting e-vigilantism**

Social activity in online groups has been heavily studied, and it is without a doubt that participating in social media involves complex psychological and behavioral mechanisms. It has been shown that people are motivated to take part social media, for informative purposes, instrumental

---

<sup>197</sup> Whereas Feinberg's work is grounded in a Millian view according to which punishment should be proportionate to the harm caused (and should be justified only to that extent), Hampton's theory is justified on grounds of deterrence. Jean Hampton. The moral education theory of punishment. *Philosophy and Public Affairs* 13(3), 208 (1984); Jean Hampton. An Expressive Theory of Retribution, in *Retributivism and Its Critics* 1, 11 (Wesley Cragg ed., 1992) [Hampton argues that punishment should teach the offender that his act is morally wrong and should not be repeated. Punishment is thus justified as a way of preventing wrongdoing, as it teaches both the wrongdoers and the public, the moral reasons for choosing not to perform an offense.]; Joel Feinberg, *The Moral Limits of the Criminal Law: Harmless Wrongdoing* (Oxford University Press, 1987).

<sup>198</sup> Carol Steiker. Foreword: Punishment and Procedure: Punishment Theory and the Criminal-Civil Procedural Divide, *Geo. L.J.* 85, 775, 803 (1997).

<sup>199</sup> Duff, R. A. *Punishment, Communication, and Community*, 47 (Oxford: Oxford University Press, 2001).

<sup>200</sup> One major critic is by Jeffrie Murphy highlights the tension between expressivism and liberalism; whereas liberalism is considered to take only a very limited interest in its citizens' attitudes, asserting that liberals should refrain from intrusive analysis of citizen's motives, state denunciation of crime is focused on authoritative condemnation of the moral quality of an offender's acts. Bennett reconcile that tension arguing that denunciation theory is not anti-liberal given that a liberal state does have an interest in offender's attitudes as well as the authority to make moral judgments representing the collective as a whole. Murphy, J. G., *Retributivism, Moral Education and the Liberal State*, *Criminal Justice Ethics* 4, 3 (1985); Bennett, C. *State Denunciation of Crime*. *Journal of Moral Philosophy* 3, 288 (2006); Heidi M. Hurd. *Why Liberals Should Hate "Hate Crime Legislation"*. *Law and Philosophy* 20, 215 (2001); For a broader critical read see also Davis, M., *Punishment as Language: Misleading Analogy for Desert Theorists*, *Law and Philosophy* 10, 310 (1991); Boonin, D., *The Problem of Punishment* (New York: Cambridge University Press, 2008); Hanna, N., *Say What? A Critique of Expressive Retributivism*, *Law and Philosophy* 27, 123 (2008); Matravers, M., *Duff on Hard Treatment*, in *Crime, Punishment, and Responsibility* (R. Cruft, M. Kramer, M. Reiff eds.) 68 (Oxford: Oxford University Press, 2011).

<sup>201</sup> Kahan (1996), at 613 [describing how imprisonment became a primary form of punishment "because liberty was so intensely and universally valued" that it became "an effective instrument for conveying public condemnation and inducing shame even in a society of strangers"]

<sup>202</sup> Kahan's defense of shame sanctions is mostly based on shame's expressive dimension compared with the alternatives. He posits that shaming's expressive dimension is what distinguishes it from other forms of alternatives to imprisonment that are unacceptable due to their social meaning; in analyzing public reaction to fines and community service, Kahan find these to be perceived as 'not condemning enough' compared with imprisonment, as they lack the expressive dimension. Particularly, replacing a system of hard treatment with a system of fines would be conveying a message that an "offenders' conduct is being priced rather than sanctioned."

purposes, improving social interaction and self-esteem.<sup>203</sup> Some have argued that people share on social media due to our social tendency to overshare or simply because our friends do.<sup>204</sup> Motivations for vigilantism have been also heavily studied and found to include establishing or maintaining sociopolitical order,<sup>205</sup> imposing order in lawless realms<sup>206</sup> and punishment for alleged criminal behavior.<sup>207</sup> In his work on user-led policing online (by citizens), Daniel Trottier identifies two distinct functions of the studied behavior: first, conventional policing, being a source of information for the police and second, private form of criminal justice.<sup>208</sup>

In a preliminary work I conducted, a classification of the functions (or motivation) of e-vigilantism in light of punishment theories is offered. Text analysis of posts' wording within a sample of e-vigilantism case-studies<sup>209</sup> were regarded as declared motivations and allowed for initial categorization<sup>210</sup> of the main motivations for e-vigilantism: Deterrence, Retribution, and Investigative/Evidentiary role.<sup>211</sup> Shaming per se played a pivotal role in most if not all case-studies, thus was regarded as a distinct motivation/justification.

In this study, participants were presented with five statements on a five-Likert-like scale (agreement) to assess justifications and motivations for supporting e-vigilantism. See survey in appendix.

---

<sup>203</sup> See for initial read Alexander Hars, Shaosong Ou (2002); McKenna, K. Y. A., & Bargh, J. A. (1998).

<sup>204</sup> The contagious effect of posts of social media see Coviello L, Sohn Y, Kramer ADI, Marlow C, Franceschetti M, Christakis NA, et al. (2014) Detecting Emotional Contagion in Massive Social Networks; Kramer, A.D. Guillory, J.E. and Hancock, J.T. Experimental evidence of massive-scale emotional contagion through social networks. In Proceedings of the National Academy of Sciences (2014).

<sup>205</sup> Rosenbaum, H., & Sederberg, P. (1974). Vigilantism: An Analysis of Establishment Violence. *Comparative Politics*, 6(4), 541-570. doi:10.2307/421337

<sup>206</sup> Alvarez & Bachman 2007; Weisburd, David. (1984). Vigilantism as Rational Social Control: The Case of the Gush Emunim Settlers. *Political Anthropology*, 4

<sup>207</sup> Zimring 2003

<sup>208</sup> Trottier D (2014) Police and user-led investigations on social media. *Journal of Law, Information & Science* 23(1): 75-96

<sup>209</sup> A total of 19 Facebook posts (that include about 13,500 comments) were collected and analyzed. All posts were published between 2013-2015 and defined as e-vigilantism (See definition in chapter \_\_\_\_). Data collect was done using Facebook API and comments to posts were retrieved via the main post's ID. Data analysis was conducted mostly manually but some text analysis was performed using nVivo software. Data originally appear in Hebrew (language) and was translated.

<sup>210</sup> The suggested categorization is inspired in part by Khamis and Vaughn (2011), who defined three potential functions for social media in contributing to mass uprisings during the Arab Spring: cyberactivism, civic engagement and citizen journalism. Khamis, Sahar and Vaughn, Kathryn. *Cyberactivism in the Egyptian revolution: How civic engagement and citizen journalism tilted the balance*. *Arab Media & Society* No. 13 (2011).

<sup>211</sup> Deterrence was observed and classified as such when the post writer stated motivation behind sharing the story as 'keeping the offender from reoffending or otherwise protecting society from him/her'. Retributive motivation was classified as such when uploader used 'getting even' or 'doing justice' as the reasoning for upload. When the declared goal of uploading the post (according to its wording) was 'keeping a record' or 'gathering information' justification was classified as investigative/evidentiary role. '.



**Figure 10: Motivations for e-vigilantism (by strongest support / highest agreement, 4 or 5)**

	Percent of strong agreement among sample <sup>212</sup>
Deterrence – Warning purposes (“I would share/write the post to warn others from this person’s behavior”)	62%
Investigative/Evidentiary purposes (“I would share/write the post to help get to the bottom of this and get more details on the attacker”)	60.2%
Retribution – Help victim (“I would share/write the post to show support for the victim”)	43.5%
Shaming (“I would share/write such post to shame the attached and teach him a lesson”)	37.7%
Investigative/Evidentiary purposes (“I would share/write the post as it includes evidentiary materials that needs to be saved”)	33.1%

62% of sample, ranked warning purposes as their strongest justification for e-vigilantism (ranked agreement as either 4 or 5). Approx. 60% ranked gathering information as the leading motivation for sharing such post, making the investigative role come second to deterrence; 43.5% ranked highest agreement with ‘helping victim’ and 33% would share first and foremost for evidentiary purposes. Only 38% of sample strongly agreed that they would share such content for ‘shaming’ purpose, making it their declared motivation.

<sup>212</sup> Does not constitute 100%; participants were asked to rank each statement on a five-Likert-like scale, in order to allow ranking all or none as motivations.

## ***PART II: SHAME SANCTIONS' LEGITIMACY (OR, WHAT IS REALLY WRONG WITH SHAME SANCTIONS?)***

“The attractions of a new shame culture, where denizens of Twitter and Facebook target people who harm society, are easy to see. Our plodding legal system often fails to do justice because of the high standards of proof, the expense of lawyers, and the weakness of the laws—laws that are often so weak because rich corporations exert so much influence over legislators. Indeed, shaming allows us to avoid the messy business of legislation in the first place; moral norms are enforced directly, so one doesn’t need to wait for the political system to lurch into motion. If there is no law against making racist arguments, we can nonetheless shame people who do. Shaming seems like a democratic, cost-effective, and fluid device for combating environmental degradation, racism, and homophobia—for creating a virtuous society. But the truth is nearly the opposite”.<sup>213</sup>

Whereas anonymity denies the legitimacy of some forms of online shaming, and cyberbullying lacks the component of correcting a deviant behavior, e-vigilantism as hereby defined is different from both and might be considered by some a legitimate social, ex-legal sanction. This part analyzes the main objections to shame sanction, through which a two-fold normative argument is made: First, E-vigilantism is revenge based, yet so are legal systems. That is to say, that the main difficulty with e-shaming does not stems from the sanction’s intrinsic nature “as such” (as being particularly cruel or morally unacceptable), but rather have to do with the manner in which it is administrated and implemented. Second, revenge-based punishment evolved into modern legal systems in which law enforcement agents are in power. When those fail in the eyes of the People – they claim back power and revenge ‘breaks out’. The second part of the argument is supported by empirical evidence aforementioned.

One of the most established arguments against shame sanctions, is that it is a particularly cruel form of punishment given two main reasons. First, being a brutal and disgraceful punishment, shaming violates human dignity. Second, shame sanctions damage the structure of a decent society as they incite the public to mob violence against the targets of shame.<sup>214</sup> The attack on public sanctions involving shame was led by thinkers having the “ambition to guarantee a higher ‘spiritual’ existence for human beings”<sup>215</sup> with the understanding that “The punishments, executions, and public amusements grossly outraged any human and civilized taste.”<sup>216</sup> The notion of shame sanctions being particularly cruel is grounded in shaming being a ‘primitive’ punishment, historically involving a hard physical treatment dimension. Indeed, in modern times, in which “the goal of human social order was to rein in the beast within”,<sup>217</sup> major attacks on shame sanctions

---

<sup>213</sup> Eric Posner. A Terrible Shame. Enforcing moral norms without the law is no way to create a virtuous society. Slate. April 9, 2015  
<[http://www.slate.com/articles/news\\_and\\_politics/view\\_from\\_chicago/2015/04/internet\\_shaming\\_the\\_legal\\_history\\_of\\_shame\\_and\\_its\\_costs\\_and\\_benefits.html](http://www.slate.com/articles/news_and_politics/view_from_chicago/2015/04/internet_shaming_the_legal_history_of_shame_and_its_costs_and_benefits.html)> (Last accessed May 9, 2016)

<sup>214</sup> Martha C. Nussbaum. Hiding from Humanity: Disgust, Shame, and the Law, 230-233 (Princeton University Press, 2004).

<sup>215</sup> Whitman, at 1073-1077 [referring to authors in the nineteenth-century rejecting public sanctions involving shame, on the basis of them being cruel, barbaric and brutal.]

<sup>216</sup> William Graham Sumner. Folkways: a study of the sociological importance of usages, manners, customs, mores, and morals (Boston: Ginn and Co., 1906).

<sup>217</sup> Whitman, at 1077.

specifically concern pre-modern forms of shaming that had “a kind of carnivalesque, orgiastic quality, a quality which suggests a connection between shame and the bodily functions.”<sup>218</sup>

While there is without a doubt some truth to it, the applicability of the overall argument to e-vigilantism is questionable. As argued by Whitman in his critic against shame sanctions, it is “far easier to say what is philosophically objectionable about sanctions involving corporal violence than it is to say what is objectionable about pure public humiliation.”<sup>219</sup> Whereas the conventional way of thinking of the traditional shame sanction in terms of a linkage between inflicting suffering and expressing condemnation – in its online form, shaming is completely distinct from a physical dimension, where damage to one’s physical being is replaced with damage to status or reputation. The just fear from arousing bestial instincts involved with traditional shaming, and the desire to create a distinction between the human and the animal, seems less relevant in today’s ‘shameless society’<sup>220</sup> and even less so in the cyberspace. Even if accepting that “regardless of how scrupulously shame sanctions leave the body of the offender intact, they violate the offender’s dignity in some objectionable way”,<sup>221</sup> there is still a convincing defense against the argument of cruelty when shame sanctions are put in their context, *compared with the alternatives*; In his provocative piece, Kahan<sup>222</sup> was right at least about one thing, shaming is indeed cruel, yet no more cruel than imprisonment.<sup>223</sup>

Furthermore, even if willing to consider ‘cruelty’ or ‘bestial instincts’ as the main issues with e-vigilantism, it should be noted that shame sanctions seem to be inseparable part of human nature<sup>224</sup> with revenge has always played a role in human prehistory – being means of survival.<sup>225</sup> A long line of literature demonstrates that the law has evolved from (and substitute for) revenge based on

---

<sup>218</sup> Id. at 1078.

<sup>219</sup> Whitman, at 1061.

<sup>220</sup> Id. at 1079 [overall rejecting the objection to shame sanction based upon nineteenth century ideas of human dignity arguing that “Victorian “spiritual” dignity is gone throughout society”.]

<sup>221</sup> Id. at 1068-1069.

<sup>222</sup> Dan M. Kahan. What Do Alternative Sanctions Mean, U. Chi. L. Rev. 63, 591 (1996) [in one of the most known and debated pieces on shame sanction, Kahan calls for the ‘enrichment of the punitive vocabulary via the rediscovery of shame’, mainly arguing for their effectiveness and their expressive dimension compared with alternatives which lack moral condemnation, and given the criminal justice system crisis revolving imprisonment.]; Dan M. Kahan. What’s Really Wrong with Shaming Sanctions. Tex. L. Rev. 84, 2075 (2006) [in this paper, Kahan admits his defense of shaming was wrong. While still sticking to the economic benefits of shaming and its expressive nature – relative to the known deficiencies of imprisonment – Kahan argues that shaming sanctions convey conflicting messages about the nature of the ideal society, which result in people’s disapproval of that form of punishment. In short, Kahan contest that a law or policy should bear “meanings sufficiently rich in nature and large in number to enable diverse cultural groups to find simultaneously affirmation of their values within it.” Thus, only laws or policies that many can relate to will survive (the “overdetermination principle”). On the other hand, a law that is perceived as affirming the values of only some cultural perspectives will generate persistent resistance due to the lack of consensus surrounding it. Building on the expressive overdetermination principle, Kahan now argues that when considering punishments, people are looking for moral condemnation that suits their intrinsic values and morals. Shaming is not as ambiguous or expressively overdetermined as imprisonment and is therefore inappropriate.]

<sup>223</sup> Id. Kahan (1996) at 641, 646; Also, even in his 2006 piece, where he admit to be wrong about considering shame sanctions, he is sticking to his original argument on shaming being no more cruel than imprisonment.

<sup>224</sup> Paul M. Schwartz. From Victorian Secrets to Cyberspace Shaming, U. Chi. L. Rev. 76, 1407 (2009).

<sup>225</sup> Richard A. Posner, LAW AND LITERATURE (2nd ed., 1998) p77

legal sanctions.<sup>226</sup> Indeed, societies evolved from “barbarism to civilization”<sup>227</sup>, the modern State<sup>228</sup> has been born and transformed law systems accordingly.<sup>229</sup> With that said, criminal law is rooted in vengeance<sup>230</sup> and ‘remainders of revenge’ can be found in legal systems to this day.

As stated by Holmes, “The various forms of liability known to modern law spring from the common ground of revenge.. in the criminal law and the law of torts it is of the first importance. It shows that they have started from a moral basis, from the thought that some one was to blame.”<sup>231</sup> Posner also describes modern justice to be based on revenge, arguing that “corrective justice defines the task of the legal system to restore the balance between persons that a wrongful act has disturbed. It reflects the revenge-inciting indignation caused by the infringement of one's rights..”<sup>232</sup> In fact, though partially abolished in the middle of the nineteenth century,<sup>233</sup> official public shaming is practiced as a punishment to this day in various legal systems,<sup>234</sup> arguably as a

---

<sup>226</sup> For a read on the evolution of modern justice systems and particularly criminal law, as a civilized substitute for ancient violent revenge see Oliver W. Holmes, Jr., *THE COMMON LAW*, 1-38 (1881); Richard A. Posner. *LAW AND LITERATURE* (1998) [(Sketching the evolution of justice systems from private, revenge based system to duel, then trial by battle or other medieval warfare, to modern, “rational” litigation system – where the norm of revenge nonetheless persisted; transition from ‘Kantian’ moralism, absolute liability ruled by emotions and revenge, to a system of legal liability based on blameworthiness.) Geoffrey MacCormack. *Revenge and Compensation in Early Law* 21 *AMER. J. COMP. L.* 69 (1973) [Discussing the transition from a revenge based society to a legalistic society and that of the justice system from revenge to compensation, showing that in archaic societies the only redress for an injury was revenge.]; AMYE NIVETTE. *Institutional ineffectiveness illegitimacy and public support for vigilantism in latin america.* *CRIMINOLOGY* 54(1), 142 (2016); Kenworthy Bilz. *The Puzzle of Delegated Revenge* 87 *Bu. L. Rev.* 1059 (2007); James Q. Whitman. *At the Origins of Law and the State: Supervision of Violence, Mutilation of Bodies, or Setting of Prices?* 71 *Chi. Kent L. Rev.* 41 (1995).

<sup>227</sup> Oliver W. Holmes, Jr., *THE COMMON LAW*, 1-38 (1881). p37

<sup>228</sup> James Q. Whitman. *At the Origins of Law and the State: Supervision of Violence, Mutilation of Bodies, or Setting of Prices?* 71 *Chi. Kent L. Rev.* 41 (1995) p42 [According to the self-help model, a theoretical framework of the origins of law and the State, there are four stages in the early development of law and the State: stage one is state of nature, characterized with ordered vengeance or vendetta issued by individuals upon injury, perusing “an eye for an eye” justice. Stage two, in which the early State emerges, yet it does not attempt to prevent violence, rather, to supervise the existing system of vengeance. Only in stage three, the early state’ monopolizes the legitimate use of violence’ and begins to function as enforcer on behalf of injured clans. Lastly, in stage four, the State eliminates private forms of violence, while establishing “a system of ‘compositions,’ substituting money damages for talionic vengeance.”]

<sup>229</sup> Richard A. Posner, *LAW AND LITERATURE* (2nd ed., 1998) p82-84 [Discussing three major principles that evolved in modern societies and that as mitigate the dominance of revenge: retribution, composition and compassion. (1) Retribution is considered a “sanitized revenge”, a proportionate, constrained retaliation; (2) ‘Boold money’, exchange of goods, is less costly than violence, (3) Kinships, in which pity and compassion are expressed towards the aggressor].

<sup>230</sup> Richard A. Posner, “The Romance of Force: James Fitzjames Stephen on Criminal Law,” 10 *Ohio State Journal of Criminal Law* 263 (2012); Richard A. Posner *The Economics of Justice* (Harvard University Press 1981) 268-9.

<sup>231</sup> Oliver W. Holmes, Jr., *THE COMMON LAW*, 1-38 (1881). p37

<sup>232</sup> Richard A. Posner, *LAW AND LITERATURE* (2nd ed., 1998) p84

<sup>233</sup> For a broad read on shame sanction throughout modern history see James Q. Whitman, *What’s Wrong with Inflicting Shame Sanctions?* *Yale L.J.* 107, 1055 (1998).

<sup>234</sup> *Id.* Whitman 1055-1056, 1061 [describing current stigmatizing sanctions in the Republic of China, in Islamic states and in the US, such as publishing prostitutes customers’ names or Megan's Law]; see also Justin Worland. *Hong Kong Anti-Littering Campaign Uses DNA From Trash to Shame People.* *Time.* May 20, 2015 <[time.com/3890499/hong-kong-littering-campaign/](http://time.com/3890499/hong-kong-littering-campaign/)> (Last accessed May 9, 2016); Simon McCormack. *NYPD Union Responds To Calls For Reform By Shaming The Homeless.* *HuffingtonPost.* August 11, 2015. <[www.huffingtonpost.com/entry/nypd-union-homeless\\_us\\_55ca27dbe4b0f1cbf1e656b7](http://www.huffingtonpost.com/entry/nypd-union-homeless_us_55ca27dbe4b0f1cbf1e656b7)> (Last accessed May 9, 2016); In the Netherlands for example, despite a widespread anonymization practice which court decisions undergo, there is a legislative arrangement allowing the disclosure of parties’ names for the exact purpose of social sanction. Dutch Code of Criminal Procedure Art.

‘milder form’ of punishment. To sum the argument, being based on shaming E-vigilantism is clearly a revenge-based mechanism. With that said, there is nothing ‘wrong’ with revenge as such. In fact, modern legal systems grow out of revenge-based societies, and in part, still utilize shame sanctions.

Another debate surrounding shame sanctions concerns their effectiveness considering cost-benefit analysis. In her criticism towards the shame culture, Massaro argues that shaming is at most self-defected, as stigmatization increases delinquency; shaming could backfire because it “destroy offenders’ reputations and feelings of self-esteem and thus simultaneously extinguish their incentive to protect their good standing and their opportunities to be reintegrated into law-abiding society.”<sup>235</sup> At minimum, she argues, it is inefficient as one cannot shame the shameless; offender’s do not fear social disapproval and thus shaming them will not do. In other words, shaming will not deter ex-ante given that offenders do not value their reputations, and will undermine their primary social incentives to obey the law ex-post. Other cost-benefit analysis of nonlegal sanction points to the ‘hidden costs’ of shame sanctions, when promoting social hierarchies and creating disorder and deviant sub-communities<sup>236</sup> or the disproportionate nature of revenge-based punishment. Indeed, in a justice system based on revenge there are no assurance that penalties are optimal; Being motivated by emotions, a victim is likely to inflict injury on the wrongdoer that is greater than the injury caused, simply as it is less costly (killing ‘is cheaper’ than wounding).

The overall cost-benefit analysis of online shaming’s clearly exceeds the scope of this work. Yet to address some of the critique, it should be noted that the intrinsic irrational (or unproportional<sup>237</sup>) nature of revenge or retaliation does not necessarily equal inefficiency. Kahan and others seem to have some convincing counter arguments, focusing on the multiple benefits of shaming as a cheap, possibly ‘costless’, alternative punishment<sup>238</sup>; its low costs of administration *relatively* of imprisonment and its ability as an *alternative*, to “free up imprisonment resources”<sup>239</sup> for offenses

---

9(1)(b)(3); Economic Offences Act Art. 7(g). See also Richard A. Posner *The Economics of Justice* (Harvard University Press 1981) p231 [mentioning the fact that while policeman and judges are payed to administer justice – witnesses, jurors and victims appear in trials without receiving any monetary compensation, thus arguably motivated to cooperate by ancient ‘thirst for revenge’.]

<sup>235</sup> Toni M. Massaro. Shame culture and American criminal law. *Mich. L. Rev.* 89, 1880, 1919 (1991); See also A. Klement and A. Harel. *The Economics of Stigma: Why More Detection of Crime May Result in Less Stigmatization.* *J. of Legal Stud.* 36, 355 (2007); Schwarcz, D. *Shame, Stigma, and Crime: Evaluating the Efficacy of Shaming Sanctions in Criminal Law,* *Harv. L. Rev.* 116, 2186 (2003).

<sup>236</sup> Eric A. Posner, *Law and Social Norms* (2000); Richard A. Posner. *Social Norms, Social Meaning, and Economic Analysis of Law: A Comment,* *J. Legal Stud.* 27, 553 (1998) [arguing that shame sanctions are inappropriate “humiliating punishments” that impose humiliation rather than confront individuals with the price for their crimes. Posner argues that a punishment should express respect for the dignity of the criminal, mostly in order to prevent a proliferation of public attitudes that threaten a free society.]; For a similar notion see Teichman, Doron, *Sex, Shame, and the Law: An Economic Perspective on Megan’s Laws.* *Harvard Journal on Legislation* (2005) [discussing the costs of nonlegal shame sanctions in the form of public disorders and riots.]

<sup>237</sup> Here, mainly referring to the fact that a vengeance-based justice system is based of absolute liability regime, meaning, it cannot differentiate between culpable and excusable injuries/aggression. See Posner, *LAW AND LITERATURE* p81

<sup>238</sup> Kahan, Dan M. and Posner, Eric A. *Shaming White Collar Criminals: A Proposal for Reform of the Federal Sentencing Guidelines.* *Journal of Law & Economics* 41(2) (1998); Eric A. Posner, *Law and Social Norms* (2000); Stephen P. Garvey, *Can Shaming Punishments Educate?* *U. CHI. L. REV.* 65, 733 (1998); Teichman.

<sup>239</sup> Kahan (1996), 635; Richard McAdams, *The Origin, Development, and Regulation of Norms,* *Mich. L. Rev.* 96, 338 (1997).

that ‘truly’ require incapacitation. In response to Massaro’s argument, shameless or not, under a retributivist theory, an offender is *entitled* for his punishment precisely for being a moral agent valued equally. Furthermore, from a deterrence point of view, as Kahan points out, the deterring effect of ‘shaming the shameless’ could be justified “if we believe that the threat of like treatment would extract a sufficiently large regulatory effect on the general *population*”.<sup>240</sup> It has been also argued that revenge-based justice system is inefficient given the component of under-specialization, meaning, instead of ‘few’ full-time experts, each member of the community spends time and energy playing a part-time role in ‘law’ enforcement. And yet, Posner points to that impact of collective responsibility as lowering the cost of revenge, prissily because of increasing the number of avengers.<sup>241</sup>

Still in the context of effectiveness, it has been further argued that shaming cannot work in modern-urban societies given the sanction’s psychological way of operation. For shaming to be effective, past and future familiarities between the crowd and the ashamed are essential. Putting aside the pure psychological debate on whether shame is an emotion triggered by internal or external forces<sup>242</sup> (probably both), indeed, being shamed ‘face-to-face’ by acquaintances in a village society<sup>243</sup> is impossible in urban societies dominated by anonymity.<sup>244</sup> The collapse of community ties during the shift to individualistic societies has an impact on modern shame sanction, and yet – somewhat paradoxically – it has much less impact on online shaming. As noted by Braithwaite, “community lost is community regained in other ways”.<sup>245</sup> Virtual communities nowadays provide a platform, a community that many consider of great resemblance to a village-like community; a social network that facilitates weak ties as well as kinships.<sup>246</sup> Just as in pre-modern village societies, “one can’t leave the Internet. Once shamed, always shamed.”<sup>247</sup> If anything it is the contrary, the rebirth of shaming in a virtual community scheme is precisely due to virtual community’ characteristics, which make this practice so effective.

---

<sup>240</sup> Id. at 643.

<sup>241</sup> Richard A. Posner, *LAW AND LITERATURE* (2nd ed., 1998) p. 78.

<sup>242</sup> Benedict, Ruth. *The Chrysanthemum and the Sword* (1946) [in this study of the Japanese society, the American anthropologist explored the role of shame and guilt as methods for social control, distinguishing "shame cultural" from "guilt cultures". Whereas the former relates to traditional societies that rely on external sanctions, modern forms of shaming and guilt, she argues, rely on internalized morality.]; See also Braithwaite, J. *Crime, Shame and Reintegration* (Cambridge: Cambridge University Press, 1989) [asserting that internal shaming is more effective than that conducted by strangers]; Whitman, at 1065-1066 and references there to philosophical and psychological commentators.

<sup>243</sup> Notably, Foucault argued that the success of shame sanction in the 18th and 19th century was due to the nature of a ‘village community’ where an offender would permanently reside among community peers, allowing shame to have a sustained effect. Foucault, M. *Discipline and Punish: The Birth of the Prison* (London: Peregrine, 1979).

<sup>244</sup> Braithwaite, at 81 [“an important condition for its success is the existence of strong social bonds between individuals. Shaming can deter crime, especially for persons in relationships of interdependency and affection, because such persons will accrue greater interpersonal costs from shame. If wrongdoers do not feel bonded to their condemners, then shaming will not be effective in regulating their behavior, and they will probably not even feel ashamed.”]; also Adam J. Hirsch. *The Rise of the Penitentiary Prisons and Punishment in Early America* (New Haven: Yale University Press, 1992) at 38 [suggesting that pillory was no longer effective as a shame sanction “when performed before persons with whom offenders were unacquainted, and with whom they have no further personal contact”]; see also Whitman, at 1063; Massaro, at 1921 (arguing that “the cultural conditions of effective shaming seem weakly present, at best, in many contemporary American cities.”)

<sup>245</sup> Braithwaite, at 153.

<sup>246</sup> Wellman, B., & Gulia, M. *Net Surfers Don’t Ride Alone: Virtual Communities As Communities. Communities and Cyberspace*, Edited by Peter Kollock and Marc Smith (New York: Routledge 1997).

<sup>247</sup> Posner (2015).

Shame sanctions are also rejected by a crowd of thinkers as they promote status inequality and social hierarchies. Indeed, historically shame sanctions were common among dominators and their subjects (a master and his slave, husband and wife, educator and a child) and inherently included a symbolic lowering of subjects' status thus promoting the spirit of social hierarchy. Furthermore, specifically in the context of a criminal punishment, shame sanctions were generally considered low-status punishments, used only against certain low-status groups.<sup>248</sup> The moral attack on shame sanctions on egalitarian grounds is thus based on an objection to status distinctions and to “the very idea that there should be high-class and low-class punishments”.<sup>249</sup>

The applicability of this argument in our context raises interesting questions having to do with the nature of communication technology platforms; Generally, modern shame sanctions are in fact used by *disprivileged* individuals or groups against those of ‘higher statute’.<sup>250</sup> This also seems to be the case in cyberspace, where shaming is conducted at least in part by the voiceless,<sup>251</sup> and is in fact enabled precisely because of the network’s flat, many-to-many structure.<sup>252</sup> With that said, cyber skeptics provide some good reasons to believe that online dynamics are not different than those offline;<sup>253</sup> though in a less transparent and more subtle configuration, some argue that hierarchies exist online with leaders of public opinion, social network structures and practices as sponsored content contributing to their survival.<sup>254</sup>

“Even if shame sanctions were wholly unobjectionable from the point of view of punishment theory, they would still fail the test of a sane political theory”.<sup>255</sup> Another critical view on shaming is based on the fact that it cannot be justified on political grounds.<sup>256</sup> First, shaming, it is suggested, is in contrast to liberalism; a liberal state could never successfully influence members of society

---

<sup>248</sup> Whitman, at 1070 [referring broadly to the dignitary arguments against shame sanctions as evolved in modern history, discussing how in pre-modern world, different punishments were aimed at different social groups.]

<sup>249</sup> Id. at 1070.

<sup>250</sup> noting with regard to traditional shaming, that shame sanctions are punishment used typically for upper-status offenders.

<sup>251</sup> Dimond, J. P., Dye, M., Larose, D., and Bruckman, A. S. Hollaback!: the role of storytelling online in a social movement organization. In Proc. of CSCW '13. ACM, New York, NY, USA, 477 (2013) [the study explores how CSCW (Computer-supported cooperative work) facilitates social movements. In particular, it explores the use of online collective storytelling in the context of Hollaback!, a social movement working to stop street harassment.]

<sup>252</sup> Kedzie, Christopher. A Brave New World or a New World Order? in Culture of the Internet, Sara Kiesler (ed.) (Mahwah, NJ: Lawrence Erlbaum Associates, 1997); For a read on the net decentralized character from a technological point of view (known as the end-to-end principle) see Saltzer, J. H., D. P. Reed, and D. D. Clark, End-to-End Arguments in System Design. In: Proceedings of the Second International Conference on Distributed Computing Systems. Paris, France. April 8–10, 1981. IEEE Computer Society, 509 (1981).

<sup>253</sup> See for example Evgeny Morozov pessimistic view on the illusion of the Internet as a tool to promote democratic values while empowering the individual, arguing that online communication and content is manipulated by governments to maintain control. Evgeny Morozov. The Net Delusion: The Dark Side of Internet Freedom (PublicAffairs, 2011).

<sup>254</sup> Referring to the principles of ‘vitality’ suggesting that not all content/posts are likely to get viral as others.

<sup>255</sup> Whitman, at 1059.

<sup>256</sup> Whitman’s argument seems to be in those lines. On its surface, Whitman rejects the political arguments as the objection to shame sanctions. Nonetheless, Whitman’s objection to shame sanctions is detected from the offender's point of view or other “social argument” as he defines (meaning, those objections ‘that focus on how shame sanctions work within the structure of a given society’). His overall conclusion ‘smells political’ given its focus on the dangerous relationship between the public and government that official shaming entangles.

as public opinion is formed independently.<sup>257</sup> Furthermore, punishment may be classified into several categories, among which, the deprivation of liberty (imprisonment) or dignity (shaming).<sup>258</sup> Being *the* sacred value in a liberal society, liberty is the ‘currency’ with regards to punishment – thus liberty, and no other right, should be deprived upon committing a crime.<sup>259</sup> Above all, the argument against shaming from a liberal perspective is that liberal regimes have ‘no business’ in imposing moral inquiries. Second, while it is permissible for a State to inflict shame sanctions, it would be unwise to do so, given that public shaming poses potentially dangerous consequence as stirring up riots and public disorders. Exciting the crowd by exposing an offender to the public is risky as it might result in the State losing its control.<sup>260</sup> In his critique, Whitman contends that the real problem with shame sanction is that it symbolizes that the state has “given up on the obligation of the state both to define what is criminal and to administer criminal sanctions itself.”<sup>261</sup> This “dangerous willingness, on the part of the government, to delegate part of its enforcement power to a fickle and uncontrolled general populace”<sup>262</sup> results in an ‘officially sponsored lynch justice’ and ochlocracy.<sup>263</sup>

Rejecting the practice of online shaming on these political grounds does not make much sense; it is important to note, that these political considerations concern the proper use of State power and thus, their relevance to the practice of online shaming is only limited. They do not hold for private-justice mechanisms administrated by the People with no active, direct involvement of State agents. The libertarian argument is aimed solely at shame sanctions inflicted by the state. In fact, a part of the argument is that particularly in liberal states – whereas the State should not to determine the standard norms nor use this sort of moral coercion exerted through shaming – private citizens (or individuals in society) are entitled and even encouraged to do so.<sup>264</sup>

---

<sup>257</sup> Id. at 1085-1086 [referencing Rousseau and Mill in arguing that a shame-based practice could not be established in a liberal regime.]

<sup>258</sup> Id. at 1060 [offering a classification of punishment into five distinct categories – deprivations of life (death penalty); of liberty (imprisonment); of bodily safety and integrity (corporal violence); of property (fines); and of dignity (shaming).]

<sup>259</sup> Id. at 1070 [referring to Liberal thinkers in the 18th century as Wilhelm von Humboldt and Benjamin Rush who asserted that in a society that highlights liberty as the highest social good – rather than social statute in a pre-liberal society – deprivation of liberty should be the main form of punishment.]

<sup>260</sup> Id. Whitman, at 1082-1085 [tracing the theme of ‘crowd control’ in continental Europe and particularly France, where public executions created difficult policing issues in large cities. Also discussing similar objection to shame sanction in Nazi Germany, based on the state’s fear riots, revel and more broadly, loss of control over the crowd.]; See also Whitman 1088 [though not explicitly, this notion of predictability and order is adopted by Whitman’s in his overall conclusion against shaming, when stating: “who knows how private persons, given the right to play policemen, will behave?”].

<sup>261</sup> Id. Whitman at 1089 [while his critic is directed at “official” shame sanctions by the government, this objection seems to hold for both an ‘active’ and a ‘passive’ form of shaming, the latter referring to shaming mechanisms operated by society, where the government is not an active participant.]

<sup>262</sup> Id. at 1088

<sup>263</sup> For an initial read see Hine, Kelly D. *Vigilantism Revisited: An Economic Analysis of the Law of Extra-Judicial Self-Help or Why Can't Dick Shoot Henry for Stealing Jane's Truck?* 47 *Am. U. L. Rev.* 1221 (1998); Wehmhoener, Karl Allen, *Social norm or social harm: An exploratory study of Internet vigilantism*. Graduate Theses and Dissertations. Paper 11572 (2010); Messner, F. Steven, et al. *The Vigilante Tradition and Support for Capital Punishment*, 40 *Law & Society Rev.* 559 (2006); “viligant” Merriam-Webster.com. 2015. [www.merriam-webster.com/dictionary/vigilant](http://www.merriam-webster.com/dictionary/vigilant) (11 Nov 2015).

<sup>264</sup> John Stuart Mill. *On Liberty* (David Spitz ed., W.W. Norton & Co. 1975) (1859) [distinguishing legal penalties from moral coercion of public opinion.]; For this notion that shame sanction may be imposed, if at all, solely by society and not by the state see also Whitman, at 1085-1086.



Adopting Whitman's view only in part, the real problem with shaming is not how it treats the offender, but rather, the way in which it deals with society at large; as a self-help mechanism imposed by non-state actors, shaming is flawed as it is a "species of lynch justice" involving "an ugly, and politically dangerous, complicity between the state and the crowd".<sup>265</sup> But is emotion-based punishment really socially unstable or is it simply a collective act, thus endangering the State<sup>266</sup>? One might rightfully argue, that "revenge is a system of social control, like law itself, rather than a sign of the absence of social control."<sup>267</sup>

It is interesting to note, that the strongest objection to online shaming is actually found in what distinguishes it from traditional forms of shame sanctions; Online shaming differs from official shame sanctions in that it is administrated by the crowd, with no involvement of a state actor – justice privately administrated. When imposed by the state, shaming constitutes a set of objections as above described. What is the main case against online shame sanctions when managed solely by the crowd? Well, it is the 'general' case against *privatization* of the justice process.<sup>268</sup> This strongest argument against online shaming suggests that when implemented by the crowd, this practice is a double-edge soured – not only does shaming loses its value (if it ever had one), but more importantly, this private mechanism of justice *results in the state losing its legitimacy*. Indeed, a critical element of effective shame sanction, is that it would be imposed by an agent invested with the community's moral authority.<sup>269</sup> Furthermore, where the sovereign does not govern the basic function of administrating justice and presumably doesn't hold his promise to protect the individual from a 'war of all against all' – what is the justification for a state justice system?<sup>270</sup>

The objection to online shaming administrated solely by the crowd is not only a matter of the agent's identity as non-state actors (*by whom*) but also has to do with the way in which it is operated

---

<sup>265</sup> Whitman, at 1059.

<sup>266</sup> Posner, LAW AND LITERATURE p. 85 [stating that "The social contract that legitimates the state and formal law, supplementing justice as revenge with corrective justice, is not a means of overcoming the selfishness and atomistic individualism of man in nature; it is the opposite. Revenge is not a selfish emotion, and a revenge ethic breeds powerful family and small-group loyalties. The state created the conditions in which selfish behavior will not endanger social order. The state, as a collective, is hostile to competing collective"]

<sup>267</sup> Richard A. Posner, LAW AND LITERATURE (2nd ed., 1998) p.78.

<sup>268</sup> For an overview on the question of privatizing criminal justice Feeley, M. M. The privatization of punishment in historical perspective, in Privatization and Its Alternatives (William T. Gormley, Jr. ed.) 199, 205–07 (1991); Feeley, M. M., Entrepreneurs of Punishment: The Legacy of Privatization, Punishment and society 4, 321 (2002); for a critical read see Alon Harel, Why Law Matters (Oxford: Oxford University Press, 2014) [discussing the importance of the identity of the agent, arguing that punishment can and should only be performed by governmental agents and that a system of private punishment cannot and should not be delegated to private agents]. For a focus on the privatization of prisons see Alon Harel, Why Only the State May Inflict Criminal Sanctions: The Case Against Privately Inflicted Sanctions. Legal Theory, 14, 113 (2008); Feeley, M. M., the unconvincing case against private prisons, Ind. L.J. 89, 1401 (2014).

<sup>269</sup> Harold Garfinkle, conditions of successful degradation ceremonies, Am. J. Sociology 61, 420 (1956) [in his essay, Garfinkle lists the following three conditions of degradation ceremonies – first, shaming the conduct as being in violation with moral norms. Second, a ritual that separates the wrongdoer from those who subscribe to the norm, and lastly, that is imposed by an agent invested with the community's moral authority.]

<sup>270</sup> Notably, Hobbes Political legitimacy depends on whether the state can effectively protect those who have consented to obey it. In adopting the Hobbesian view, Beccaria explains laws "are the terms by which independent and isolated men united to form a society, once they tired of living in a perpetual state of war". He further asserts that men scarify a portion of their "liberty so that they could enjoy the remainder in security and peace" where the sovereign is "the legitimate keeper and administrator of these portions." Beccaria, at 10].

by a crowd of non-experts (*how*). In that regard, despite the absence of a physical lynch component, online shaming is “the very antithesis of law”<sup>271</sup> where the crowd is the judge, the jury and the executioner; e-vigilantism occurs with no trial, in deprivation of rights as due process and the presumption of innocence, to name just a few.

In opposing to online shaming as a private justice mechanism operated by a crowd of non-experts, several counter arguments should be considered. First, in the broader debate on the privatization of the justice system, there are some convincing voices supported by empirical findings that show that private justice mechanism does in fact work, and quite successfully.<sup>272</sup> Furthermore, the use of shaming techniques is considered desirable under certain circumstances,<sup>273</sup> when harnessed for good causes. For example, the practice of “naming and shaming” is a widespread, acceptable practice in the international arena, in which human rights groups and inter-governmental actors recruit public opinion against wrongdoers, hoping to achieve justice by pressuring the states to punish.<sup>274</sup> Still within the scope of ‘reputation theory’, corporate shaming is also a conventional practice.<sup>275</sup> In her recent book, Jennifer Jacquet calls for public, privately managed shaming for environmental causes, inter alia, to compel corporations to stop polluting.<sup>276</sup>

Though being considered and even supported in civil context, this still leaves the broader question on the legitimacy of a crowd-based justice system and *criminal* justice. A possible way of reconciling this tension would be rethinking the role of a community in the criminal justice process, as in fact being suggested by community conferencing proponents. Community conferencing has been gaining extensive support as a viable alternative to traditional criminal justice processes. Whereas community conferencing differs from e-vigilantism in many respects, the two share some similarities, the most critical being – promoting a change in the accused and the victim

---

<sup>271</sup> Posner (2015).

<sup>272</sup> See Feeley [it should be stated however that Feeley’s argument for the privatization of prisons is more about rejecting a categorical opposition to private prisons rather than explicit ‘support’. Another critical element to be noted, is that privatization is only partial given that while implementation of punishment is done by private agents, justice process itself is still conducted by the state. This is clearly not the case with online shaming, in which the crowd is the judge, the jury and the executioner.]

<sup>273</sup> Kenworthy Bilz, The Puzzle of Delegated Revenge, *Bu. L. Rev.* 87, 1059 (2007) [asserting that individuals would prefer a state punishment over vigilantism given that a state’s punishment restores the victim’s social status more than self-help can. However, Bliz’s theory does account for the state’s (lack of) legitimacy as one of the cases where self-help is preferred over state punishment.]

<sup>274</sup> Jo H, Simmons BA. 2014. Can the International Criminal Court deter atrocity? Available at SSRN: <http://ssrn.com/abstract=2552820>; DeMeritt, Jacqueline H. R. International Organizations and Government Killing: Does Naming and Shaming Save Lives? 38(5) *International Interactions* 597 (2012); KRAIN, M. J’accuse! Does Naming and Shaming Perpetrators Reduce the Severity of Genocides or Politicides? 56 *International Studies Quarterly* 574 (2012); Cullen S. Hendrix and Wendy H. Wong. When Is the Pen Truly Mighty? Regime Type and the Efficacy of Naming and Shaming in Curbing Human Rights Abuses. 43 *British Journal of Political Science* 651 (2013); Murdie, Amanda, AND David R. Davis. Shaming and Blaming: Using Events Data to Assess the Impact of Human Rights INGOs. 56(1) *International Studies Quarterly* 1 (2012); Hafner-Burton, Emilie M., AND Kiyoteru Tsutsui. Human Rights in a Globalizing World: The Paradox of Empty Promises. 110(5) *American Journal of Sociology* 1373 (2005). For a critical read on the effectiveness of shame sanctions in int’l politics see Emilie M. Hafner-Burton. *Sticks and Stones: Naming and Shaming the Human Rights Enforcement Problem.* 62 *International Organization* 689 (2008).

<sup>275</sup> Kent Walker, A Systematic Review of the Corporate Reputation Literature: Definition, Measurement, and Theory 12(4) *Corporate Reputation Review* 357 (2010); David Charny. Nonlegal Sanctions in Commercial Relationships, 104 *Harv. L. Rev.* 375 (1990); David A. Skeel Jr. Shaming in Corporate Law, 149 *U. Pa. L. Rev.* 1811 (2001); Fombrun, C. J. *Reputation: realizing value from the corporate image.* Boston: Harvard Business School Press (1996).

<sup>276</sup> Jennifer Jacquet. *Is Shame Necessary?: New Uses for an Old Tool* (Pantheon, 2015).

disposition,<sup>277</sup> acknowledging the role of the community in the process (at the expense of expertise) and allowing room for the expression of feelings, inter alia shame,<sup>278</sup> at the heart of the criminal justice process.<sup>279</sup> Though somewhat radical, considering private-justice, non-expert, crowd-led elements within our traditional expert-based justice systems, is also supported theoretically by ideas such as Collective Intelligence, the Social and Political Functioning of Technology<sup>280</sup> and Liberation Technology.<sup>281</sup>

In sum, the story of e-vigilantism entails a larger story. A story about the (declining) power of State actors and the rise of technology, which bring us in some respects, to where it all started: a revenge-based culture (empowered by technological means). This chapter lays out literature on shame sanctions in light of *online* shaming. A careful review of some of the firm objections to shaming result in most of these being simply not convincing or only partially relevant to “shaming 2.0”.

It seems that the strongest objections to online shaming are actually found in what distinguishes it from traditional shame sanctions; the main problems with e-vigilantism does not stem from the practice’s intrinsic nature, but rather the fact it is a *privately* administered justice mechanism, operated by crowd of non-experts on a powerful platform. “The smaller the private role in law enforcement, the less functional is revenge”<sup>282</sup> seems to work both ways, as the bigger the private role is, the more it arouses emotions. Revenge breaking out has been rightfully identified as futile grounds for loose law enforcement.<sup>283</sup> Indeed, as argued by Holmes: “The first requirement of a

---

<sup>277</sup> Bernard E. Harcourt. Placing Shame in Context: A Response to Thomas Scheff on Community Conferences and Therapeutic Jurisprudence. *Rev. Jur. U.P.R.* 67, 627, 634 (1998) [discussing how in community conferencing, “Rather than the defendant being silenced, marginalized, and routinized, the accused is afforded an opportunity to control, or share in the control, of his punishment. The victim, rather than being voiceless, is empowered.”] With that said, a critical distinction between the two should be made; while in online shaming the victim is indeed empowered, the offender is at times, still silenced and marginalized by the crowd.

<sup>278</sup> In his response to Scheff’s, Harcourt rightfully criticizes the focus on shame as the key for successful community conferencing, arguing for a broader spectrum of feelings involved in the therapeutic process, as sadness, anger, compassion, empathy, remorse – and I add, forgiveness.

<sup>279</sup> Thomas J. Scheff. Therapeutic jurisprudence forum: community conferences: shame and anger in therapeutic jurisprudence. *Rev. Jur. U.P.R.* 67, 97 (1998) [Scheff imports Braithwaite’s theory of Reintegrative shaming into therapeutic jurisprudence; providing evidence that a victim-offender mediation via community conferencing is both cheaper than court and prison as well as more effective in decreasing recidivism, Scheff argues that the proper management of shame – as in reintegrative vs. stigmatization – is the key to a successful community conference.]

<sup>280</sup> Clay Shirky. *Here Comes Everybody: The Power of Organizing Without Organizations* (New York: Penguin Press, 2008); Scott E. Page. *The Difference: How the Power of Diversity Creates Better Groups, Firms, Schools, and Societies* (Princeton University Press, 2007); Clay Shirky. *The Political Power of Social Media*. *Foreign Affairs* 90, 28 (2011); Zeynep Tufekci, Wilson Christopher. *Social Media and the Decision to Participate in Political Protest: Observations from Tahrir Square*. *Journal of Communication* 62, 363 (2012); Khamis, Sahar. *The Role of the media in Arab transitions: How ‘cyberactivism’ is revolutionizing the political and communication landscapes*. In the *IEMed Mediterranean yearbook*. Barcelona, Spain: European Institute of the Mediterranean. 55 (2013); For a critical read see Morozov, Evgeny. *The Internet: A Room of Our Own?* *Dissent* 56(3), 80 (2009); Malcolm Gladwell. *Small Change: Why the revolution will not be tweeted*, *The New York Times*, October 4, 2010. <<http://www.newyorker.com/magazine/2010/10/04/small-change-malcolm-gladwell>> (Last accessed May 9, 2016).

<sup>281</sup> Put very simplistically, these schools of thought calls for embracing information and communication technologies, as they empower the individual, thus promoting democratic values. See Larry Diamond. *Liberation Technology*. *Journal of Democracy* 21(3), 69 (2010); Manuel Castells. *Communication Power* (Oxford University Press, 2009); Strahilevitz, at 1248 [discussing how Internet-based evaluation sites provide “a megaphone for sharing the story with others” thus setting an alternative for litigation.]

<sup>282</sup> Richard A. Posner *The Economics of Justice* (Harvard University Press 1981) p.231.

<sup>283</sup> Richard A. Posner (1998) p.84.

sound body of law is, that it should correspond with the actual feelings and demands of the community, whether right or wrong. If people would gratify the passion of revenge outside of the law, if the law did not help them, the law has no choice but to satisfy the craving itself, and thus avoid the greater evil of private retribution.”<sup>284</sup> Whether it results, leads, or otherwise correlates, the linkage between and perceptions on formal law enforcement and private self-help justice, seems inseparable and without a doubt applicable to the case of e-vigilantism.

---

<sup>284</sup> Oliver W. Holmes, Jr., *THE COMMON LAW*, 1-38 (1881). P. 41-42.

## **BIBLIOGRAPHY**

- Ahmed, E., N. Harris, J. Braithwaite and V. Braithwaite. *Shame Management through Reintegration* (Cambridge: Cambridge University Press, 2001).
- Beccaria Cesare. *On Crime And Punishment* (Aaron Thomas ed., Aaron Thomas & Jeremy Parzen) (Univ. of Toronto Press. 2008) (1764).
- Benkler Yochai. *The Wealth of Networks* (2006).
- Bentham Jeremy. *Theory of legislation* (C.K. Ogden ed., Fred B Rothman & Co. 1987) (1931).
- Berenblum Tamar. *The internet as a sphere of social control*, Dissertation (The Hebrew University of Jerusalem, 2016).
- Bilz, J. K. The puzzle of delegated revenge. *Boston University Law Review*, 87, 1059 (2007).
- Black, D. Crime as social control. *American Sociological Review*, 48(1), 34 (1983).
- Braithwaite, J. *Crime, Shame and Reintegration* (Cambridge: Cambridge University Press, 1989).
- Braithwaite, J. *Restorative Justice and Responsive Regulation* (Oxford: Oxford University Press, 2002).
- Brown, R. M. *Strain of Violence: Historical Studies of American Violence and Vigilantism*, Oxford University Press, New York (1975).
- Casper, Jonathan D., Tom Tyler, & Bonnie Fisher. Procedural Justice in Felony Cases, *22 Law & Society Rev.* 483–507 (1988).
- Castells Manuel. *Communication Power* (Oxford university press, 2009).
- Charny David. Nonlegal Sanctions in Commercial Relationships, *104 Harv. L. Rev.* 375 (1990).
- Cheung, A.S. Revisiting Privacy and Dignity: Online Shaming in the Global E-Village. *Laws*, 3, 301 (2014).
- Citron Danielle Keats. *Hate Crimes in Cyberspace* (Harvard University Press, 2014).
- Cook S. Karen, Russell Hardin, and Margaret Levi, *Cooperation without Trust?* (New York:Russell Sage, 2005).
- Creswell John W. *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*, 4th Edition (SAGE Publications, 2013).
- Crozier, M., Huntington, S., & Watanuki, J. *The crisis of democracy. Report on the governability of democracies to the Trilateral Commission*. New York: New York University Press (1975).
- Dancig-Rosenberg Hadar, Anat Peleg. Naming, Blaming, Shaming: Sexual Assault Victims' Perceptions of the Practice of Shaming Their Assailants on Facebook, *U. Haifa L. Rev.* (forthcoming, 2020).
- Darley JM, Tyler TR, Bilz K. Enacting justice: the interplay of individual and institutional perspectives. In *The Sage Handbook of Social Psychology*, ed. MA Hogg, J Cooper, pp. 458. London: Sage (2003).
- DeMeritt, Jacqueline H. R. International Organizations and Government Killing: Does Naming and Shaming Save Lives? *38 International Interactions* 597 (2012).
- Dimond, J. P., Dye, M., Larose, D., and Bruckman, A. S. Hollaback!: the role of storytelling online in a social movement organization. In *Proc. of CSCW 2013*. ACM, New York, NY, USA, 477 (2013).

- Duff, R. A. *Punishment, Communication, and Community* (Oxford: Oxford University Press, 2001).
- Feeley, M. M. The privatization of punishment in historical perspective, in *Privatization and Its Alternatives* (William T. Gormley, Jr. ed.) 199, 205–07 (1991).
- Feeley, M. M., *Entrepreneurs of Punishment: The Legacy of Privatization*, *Punishment and society* 4, 321 (2002).
- Fehr Ernst, Gächter Simon. Altruistic Punishment in Humans. *Nature* 415, 137 (2002).
- Feinberg Joel, The Expressive Function of Punishment, in *Doing and Deserving: Essays in the Theory of Responsibility* 95 (1970).
- Ferraro, K. F. and Grange, R. L. The Measurement of Fear of Crime. *Sociological Inquiry*, 57: 70-97 (1987).
- Fombrun, C. J. *Reputation: realizing value from the corporate image*. Boston: Harvard Business School Press (1996).
- Foucault, M. *Discipline and Punish: The Birth of the Prison* (London: Peregrine, 1979).
- Fukuyama, F. *Trust: The Social Virtues and the Creation of Prosperity*, New York: Free Press (1995).
- Gans, Joshua S. and Goldfarb, Avi and Lederman, Mara, Exit, Tweets, and Loyalty. Rotman School of Management Working Paper No. 2889388 (2017).
- Garfinkle Harold, conditions of successful degradation ceremonies, *Am. J. Sociology* 61, 420 (1956).
- Garvey Stephen P., Can Shaming Punishments Educate? *U. CHI. L. REV.* 65, 733 (1998).
- Glaeser Edward L., David I. Laibson, José A. Scheinkman, Christine L. Soutter; Measuring Trust, *The Quarterly Journal of Economics*, 115 (3), 811 (2000).
- Gray, E., Jackson, J., & Farrall, S. Feelings and Functions in the Fear of Crime, Applying a New Approach to Victimisation Insecurity. *British Journal of Criminology*, 51, 75 (2011).
- Hafner-Burton Emilie M. Sticks and Stones: Naming and Shaming the Human Rights Enforcement Problem 62 *International Organization* 689 (2008).
- Harcourt Bernard E. Placing Shame in Context: A Response to Thomas Scheff on Community Conferences and Therapeutic Jurisprudence. *Rev. Jur. U.P.R.* 67, 627 (1998).
- Hardin, R. Conceptions and Explanations of Trust. In K. S. Cook (Ed.), *Trust in Society* (2001).
- Hardin, R. *Trust and Trustworthiness*. New York: Russell Sage Foundation (2002).
- Hassan Masum., *THE REPUTATION SOCIETY: How Online Opinions Are Reshaping the Offline World* (ed. Hassan Masum, Mark Tovey, Craig Newmark)(The MIT Press, Cambridge 2011)
- Hegel Georg Wilhelm Friedrich. *Elements of the Philosophy of Right* (Allen W. Wood ed., H.B. Nisbet trans., Cambridge Univ. Press, 1991) (1821).
- Heinz, Anne M. Procedure v. Consequences, in Talarico, S., ed., *Courts and Criminal Justice*. Beverly Hills: Sage Publications. 13 (1985).
- Hiltz, S. R., & Wellman, B. Asynchronous learning networks as a virtual classroom. *Communications of the ACM*, 40, 44 (1997).

Hine, Kelly D. Vigilantism Revisited: An Economic Analysis of the Law of Extra-Judicial Self-Help or Why Can't Dick Shoot Henry for Stealing Jane's Truck? 47 Am. U. L. Rev. 1221 (1998).

Jacquet Jennifer, *Is Shame Necessary?: New Uses for an Old Tool* (Pantheon books, 2015).

Johnson David R. & David Post, Law and Borders – The Rise of Law in Cyberspace, 48 Stan. L. Rev. 1367 (1996).

Johnston, L. What is Vigilantism? The British Journal of Criminology, 36(2), 220 (1996).

Kahan Dan M. What Do Alternative Sanctions Mean, U. Chi. L. Rev. 63, 591 (1996).

Kaplan, A. M., & Haenlein, M. Users of the world, unite! The challenges and opportunities of social media. *Business Horizons*, 53(1), 59 (2010).

Karin, M. *J'accuse!* Does Naming and Shaming Perpetrators Reduce the Severity of Genocides or Politicides? 56 *International Studies Quarterly* 574 (2012).

Kedzie, Christopher. A Brave New World or a New World Order? in *Culture of the Internet*, Sara Kiesler (ed.) (Mahwah, NJ: Lawrence Erlbaum Associates, 1997).

Kenworthy Bilz, The Puzzle of Delegated Revenge, 87 BU L Rev 1059 (2007).

Khamis, Sahar and Vaughn, Kathryn. Cyberactivism in the Egyptian revolution: How civic engagement and citizen journalism tilted the balance. *Arab Media & Society* No. 13 (2011).

Klement A. and A. Harel. The Economics of Stigma: Why More Detection of Crime May Result in Less Stigmatization. *J. of Legal Stud.* 36, 355 (2007).

King Gary, Robert O. Keohane, & Sidney Verba. *Designing Social Inquiry* (Princeton University Press, 1994).

Lessig, L., *Code: And Other Laws of Cyberspace*, V. 2.0 (2006).

Lipset, S. Michael. Some Social Requisites of Democracy: Economic Development and Political Legitimacy, 53 *American Political Science Rev.* 69 (1959).

Massaro Toni M.. Shame culture and American criminal law. *Mich. L. Rev.* 89, 1880 (1991).

Mill John Stuart. *On Liberty* (David Spitz ed., W.W. Norton & Co. 1975) (1859).

Mizrahi, Shlomo & Vigoda-Gadot, Eran & Cohen, Nissim. Trust, Participation and Performance. *Public Management Review.* 12. 99 (2010).

Morozov Evgeny. *The Net Delusion: The Dark Side of Internet Freedom* (PublicAffairs, 2011).

Nannestad Peter. What Have We Learned about Generalized Trust, If Anything? *Annual Review of Political Science* 11:413 (2008).

Nietzsche, F. *On the Genealogy of Morals: A Polemical Tract. Second Essay, Guilt, Bad Conscience and Related Matters.* Section 5 (1887).

Nussbaum C. Martha. *Hiding from Humanity: Disgust, Shame, and the Law* (Princeton University Press, 2004).

Nye Joseph, Philip Zelikow, and David King. *Why People Don't Trust Government.* Cambridge, MA: Harvard University Press (1997).

O'Neill Onora. *A Question of Trust: The Bbc Reith Lectures 2002.* Cambridge University Press (2002).

Posner A. Richard, *The Economics of Justice*. Harvard University Press (1981).

Posner A. Richard, *Law and Literature* (2nd ed., 1998).

Posner A. Richard. Social Norms, Social Meaning, and Economic Analysis of Law: A Comment, *J. Legal Stud.* 27, 553 (1998).

Posner Eric A., *Law and Social Norms* (2000).

Putnam, R. *Making Democracy Work*, Princeton University Press, Princeton, NJ (1993).

Putnam R., *Turning In, Turning Out: The Strange Disappearance of Social Capital in America*, *Political Science and Politics* 28(4), 664 (1995).

Putnam, R. *Bowling Alone: The Collapse and Revival of American Community* (Simon & Schuster, 2002).

Rattner, A., *Legal Culture: Law and the Legal System in the Eyes of the Israeli Public*. The Shasha Center for Strategic Research, Hebrew University, Jerusalem (In Hebrew)(2009).

Rheingold H. *The Virtual Community: Homesteading on the Electronic Frontier*. Reading, Massachusetts: Addison-Wesley (1993).

Ridings, C. M., Gefen, D., & Arinze, B., Some antecedents and effects of trust in virtual communities, *The Journal of Strategic Information Systems*, 11 No. 3-4, 271 (2002).

Ronson Jon. *So you've been publicly shamed* (2015).

Rosenbaum, H. Jon, Sederberg, Peter. *Vigilantism: An Analysis of Establishment Violence*. *Comparative Politics* 6: 541 (1974).

Schwarcz, D. *Shame, Stigma, and Crime: Evaluating the Efficacy of Shaming Sanctions in Criminal Law*, *Harv. L. Rev.* 116, 2186 (2003).

Schwartz Paul M. *From Victorian Secrets to Cyberspace Shaming* 76 *U. Chi. L. Rev.* 1407 (2009).

Shirky Clay. *Here Comes Everybody: The Power of Organizing Without Organizations* (New York: Penguin Press, 2008).

Shirky Clay. *The Political Power of Social Media*. *Foreign Affairs* 90, 28 (2011).

Skeel David A. Jr. *Shaming in Corporate Law*, 149 *U. Pa. L. Rev.* 1811 (2001).

Solove Daniel J. *The Future of Reputation: Gossip, Rumor, and Privacy on the Internet*. Yale University Press (2007).

Sproull, L., & Kiesler, S. *Connections New Ways of Working in the Networked Organization*. Cambridge, MA MIT Press (1991).

Strahilevitz, Lior. *Reputation Nation: Law in an Era of Ubiquitous Personal Information*. *Northwestern University Law Review* 102,1667 (2008).

Strahilevitz, Lior. *Pseudonymous Litigation* 77 *U. Chi. L. Rev.* 1239 (2010).

Strahilevitz Lior, *Less Regulation, More Reputation*, in *The Reputation Society: How Online Opinions Are Reshaping the Offline World*, Hassan Masum & Mark Tovey eds. (MIT Press, 2011).

Sunshine, J., & Tom R. Tyler. *The Role of Procedural Justice and Legitimacy in Shaping Public Support for Policing* 37 *Law & Society Rev* 513 (2003).



Sunshine J., Tyler TR. Moral solidarity, identification with the community, and the importance of procedural justice: the police as prototypical representatives of a group's moral values. *Soc. Psychol. Q.* 66:153 (2003).

Sunstein Cass R. *Republic.Com 2.0* (2007).

Sunstein Cass R.. *On Rumors : How Falsehoods Spread, Why We Believe Them, What Can Be Done.* Farrar Straus Giroux (2009).

Tankebe, Justice. Self-Help, Policing, and Procedural Justice: Ghanaian Vigilantism and the Rule of Law. *Law & Society Review*, 43: 245 (2009).

Teichman, Doron, Sex, Shame, and the Law: An Economic Perspective on Megan's Laws. *Harvard Journal on Legislation* (2005).

Trottier D. Police and user-led investigations on social media. *Journal of Law, Information & Science* 23(1): 75 (2014).

Tyler, T. R. *Why People Obey the Law.* New Haven: Yale university Press (1990).

Tyler, T., & Blader, S. *Cooperation in groups: Procedural justice, social identity, and behavioral engagement.* Philadelphia, PA: Psychology Press (2000).

Tyler, T. R., Public trust and confidence in legal authorities: What do majority and minority group members want from the law and legal institutions? *Behavioral Sciences and the Law* 19: 215 (2001).

Tyler, T. R. and Huo, Y. J . *Trust in the Law: Encouraging Public Cooperation with the Police and Courts.* New York: Russell Sage Foundation (2002).

Tyler, T. R., Lawrence Sherman, Heather Strang, Geoffrey C. Barnes, Daniel Woods, Reintegrative Shaming, Procedural Justice, and Recidivism: The Engagement of Offenders' Psychological Mechanisms in the Canberra RISE Drinking-and-Driving Experiment, *Law & Society Rev.* 41, 553 (2007).

Tyler, T. R., J. Fagan. Legitimacy And Cooperation: Why Do People Help the Police Fight Crime in Their Communities? *6 Ohio State Journal of Criminal Law* 231-275 (2008).

Uslaner, Eric M., *The Moral Foundations of Trust* (2002).

Walker Kent. A Systematic Review of the Corporate Reputation Literature: Definition, Measurement, and Theory. *12 Corporate Reputation Review* 357 (2010).

Wall, D.S. and Williams, M. Policing diversity in the digital age: Maintaining order in virtual communities *7 Criminology & Criminal Justice* 391 (2007).

Weisburd, D. Vigilantism as Rational Social Control: The Case of the Gush Emunim Settlers. *Political Anthropology*, 4 (1984).

Weisburd D., Vigilantism as community social control: Developing a quantitative criminological model, *Journal of Quantitative Criminology* 4(2), 137 (1988).

Wellman, B., & Gulia, M. *Net Surfers Don't Ride Alone: Virtual Communities As Communities.* Communities and Cyberspace, Edited by Peter Kollock and Marc Smith. New York: Routledge (1997).

Whitman James Q. At the Origins of Law and the State: Supervision of Violence, Mutilation of Bodies, or Setting of Prices? *71 Chi. Kent L. Rev.* 41 (1995).

Whitman James Q. What's Wrong with Inflicting Shame Sanctions? *107 Yale L.J.* 1055 (1998).

Zeynep Tufekci, Wilson Christopher. Social Media and the Decision to Participate in Political Protest: Observations from Tahrir Square. *Journal of Communication* 62, 363 (2012).

Zittrain, J., *The Future of the Internet and How to Stop It* (2008).

Zizumbo-Colunga D., Community, Authorities, and Support for Vigilantism: Experimental Evidence. *D. Polit Behav* 39(4) (2017).

**APPENDICES**

**Appendix A – survey**

## **Appendix B – CPHS Protocol approval**

CPHS Protocol ID: 2018-08-11340 approved 09/27/2018



Committee for Protection of Human Subjects (CPHS)  
Office for Protection of Human Subjects (OPHS)

1608 Fourth Street, Suite 220  
Berkeley, CA 94710-5940  
510 642-7461  
[ophs@berkeley.edu](mailto:ophs@berkeley.edu)  
[cphs.berkeley.edu](http://cphs.berkeley.edu)  
FWA# 00006252



### **NOTICE OF APPROVAL FOR HUMAN RESEARCH**

**DATE:** *September 27, 2018*  
**TO:** Malcolm M FEELEY  
Talia Schwartz  
**CPHS PROTOCOL NUMBER:** *2018-08-11340*  
**CPHS PROTOCOL TITLE:** *Levels of trust, legitimacy and support of e-vigilantism among social media users*  
**FUNDING SOURCE(S):** *Funding Type#*

A(n) *new* application was submitted for the above-referenced protocol. The Committee for Protection of Human Subjects (CPHS) has reviewed and approved the application on an expedited basis, under Category 7 of the federal regulations.

Effective Date: *September 27, 2018*

Expiration Date: *September 26, 2028*

*Continuation/Renewal:* Applications for continuation review should be submitted no later than 6 weeks prior to the expiration date of the current approval. *Note: It is the responsibility of the Principal Investigator to submit for renewed approval in a timely manner. If approval expires, all research activity (including data analysis) must cease until re-approval from CPHS has been received. See [Renew \(Continue\) an Approved Protocol](#).*

*Amendments/Modifications:* Any change in the design, conduct, or key personnel of this research must be approved by the CPHS *prior* to implementation. For more information, see [Amend/Modify an Approved Protocol](#).

*Ten-year approvals:* Minimal risk, non-federally funded protocols that are not subject to federal oversight may now be given a ten-year approval period. Please see [Ten Year Approvals](#) for information about which protocols can qualify for ten-year approvals.

The addition of federal funding or certain modifications that increase the level of risk may require a continuing review form to be submitted and approved in order for the protocol to continue. If one or more of the following changes occur, a Continuing Review application must be submitted and approved in order for the protocol to continue.

- Changes in study procedures that increase risk;
- Addition of federal funds.

*Unanticipated Problems and Adverse Events:* If any study subject experiences an unanticipated problem involving risks to subjects or others, and/or a serious adverse event, the CPHS must be informed *promptly*. For more information on



Committee for Protection of Human Subjects (CPHS)  
Office for Protection of Human Subjects (OPHS)

1608 Fourth Street, Suite 220  
Berkeley, CA 94710-5940  
510 642-7461  
[ophs@berkeley.edu](mailto:ophs@berkeley.edu)  
[cphs.berkeley.edu](http://cphs.berkeley.edu)  
FWA# 00006252



definitions and reporting requirements related to this topic, see [Adverse Event and Unanticipated Problem Reporting](#).

This approval is issued under University of California, Berkeley Federalwide Assurance #00006252.

If you have any questions about this matter, please contact the OPHS staff at 642-7461 or email [ophs@berkeley.edu](mailto:ophs@berkeley.edu).

Sincerely,

Jane MAULDON  
Committee for Protection of Human Subjects

## **Appendix C – Output Regression Models**