

CHAPTER 2

CONVENTIONALISM AND MORAL MOTIVES

2.1 The two theses of conventionalism

Conventionalism refers to theories about norms which make the following claims. First, that it is instrumentally rational to comply with norms. Secondly, that part of the reason that this is rational is because it is known that all, or a sufficiently great number of others in the group, comply with those norms. Arguably, the first formulation of these two theses can be found in the work of David Hume who analyzes justice as a set of conventions.¹ A more recent formulation is given by David Lewis whose work sparked several versions of conventionalism.² The real boom in conventionalist theory came in the late eighties and nineties of the previous century when authors started to combine conventionalist ideas with evolutionary thinking.³

The first thesis of conventionalism is *reductionism*: norms are a subset of the set of rational prescriptions. Conventionalist theories are not alone in this adherence to reductionism. Certain strands of contract theories of morality share this assumption. Hobbesian contractarianism holds that one

¹ Hume (1984). It could be argued that Hume's conceptual apparatus is derived from Hobbes. That would make Hobbes the first conventionalist were it not for the fact that for him the notion of contract or covenant is the central one.

² Lewis (1969). Lewis' work is an attempt to give a conventional analysis of semantic rules. Authors who endorse such an analysis for moral rules are Mackie (1977), Ullmann-Margalit (1977), and Harman (1977). Den Hartogh (1985) contains a more detailed conventionalist theory of moral rules. Conventionalism has proven particularly fruitful in the philosophy of law. Authors, such as Lagerspetz (1989) and Den Hartogh (1995) have given their statements of the conventionalist creed and applied it to law in particular. The discussion has not been confined to the traditional circles of philosophers. Economists, especially those within the tradition of institutional economics, have stated their version of conventionalism as well, for instance, Schotter (1981) and Sugden (1986). Finally, many of the studies in the so-called "economics and law" tradition have conventionalist elements. See for example, Ellickson (1991).

³ For example, Young (1993; 1996), Skyrms (1994). Binmore (1994;1998) contains strong conventionalist elements as well.

should comply with moral prescriptions in so far as they are the result of a hypothetical contract between rational agents. Moreover, it claims that it is rational to comply with the result of such contracts. As the name suggests, Hobbes is usually interpreted along these lines.⁴ A modern representative of this form of contractarianism, perhaps the most radical one, is David Gauthier.⁵

One of the standard criticisms directed against Hobbesian contractarianism questions this adherence to reductionism. How could a hypothetical contract between imaginary agents (completely rational individuals) in implausible circumstances (perfect knowledge, no time constraints on the negotiations, and so forth) bind us, real people in this not so perfect world?

Whether this objection rests on a proper understanding of the contractarian enterprise or not, it is clear that this specific criticism of reductionism cannot be leveled against conventionalism since that doctrine does not employ the notion of a social contract.⁶ Instead of assuming that hypothetical contracts can be binding for agents, the theory emphasizes the importance of spontaneous order.

This brings us to the second thesis, that of *conformity*. This is what distinguishes conventionalist theories from other theories of norms. Why then is it rational to comply with norms? Roughly stated, conformity entails that it is rational to comply with norms because a sufficient number of other individuals in the group comply as well. Take for example the simple case of the norm to drive on the right side of the road.⁷ Why should an individual comply with this rule? Given that (practically) everybody drives on the right and expects others to do the same, this gives one a reason to drive on the right as well. This is a relatively straightforward case. A big part of this chapter is dedicated to arguments in favor of the conformity thesis in situations where there is a certain degree of conflict of interests.

Conventionalism understands norms as more or less spontaneous regularities in behavior which are rational to comply with. Because of its adherence to reductionism, the only kind of compliance conventionalism allows for is *rational* compliance. In this chapter, I will challenge this assumption. In the end, the standard theory of instrumental rationality cannot justify the thesis of reductionism. In the absence of such justification, some appeal to nonrational behavioral dispositions must be made. More precisely, in order to understand why an otherwise rational

⁴ See for example Kavka (1986), Gauthier (1969) and Hampton (1986). The latter makes some critical remarks about this interpretation and shows that there are important conventionalist strands in Hobbes' theory.

⁵ Gauthier (1986).

⁶ My caveat about the true nature of Hobbesian contractarianism is due to the following consideration. Many Hobbesians, including Kavka, seem to regard the social contract as a heuristic device to discover the content of morality.

⁷ It should be remembered that in the countries of the Commonwealth the right side of the road is the left.

agent should comply with a norm, conventionalists need to assume that the agent has certain virtues. And insofar as conventionalism takes a certain degree of compliance with a norm to be an essential characteristic of norms, we have to suppose that norm followers are partly characterized by these virtues. Within the framework of the standard theory of instrumental rationality reductionism cannot be true. The conventionalist insight that conformity is important to understanding compliance to norms can only be saved by rejecting reductionism.

The next two sections will be concerned with some introductory remarks that should set the stage for our challenge. I will then proceed to give some examples of how conventionalists reduce norms to rational requirements, showing these requirements to be a form of spontaneous order. These examples are taken from the work of Robert Sugden, whose work is one of the most successful conventionalist theories. I will show that in spite of claims to the contrary, conventionalism has to invoke some notion of moral motives. What the nature of those motives might be, as well as the implications they have for the possibility of rational compliance to norms, will be discussed in subsequent chapters.

2.2 The scope of conventionalism

Before we can undertake our challenge, we should get a clear idea of what the scope and theoretical status of conventionalist theories are. Conventionalist theories give an analysis of norms, but not of all norms. They are limited to what is best described as *social norms*. With this rather vague term I refer to rules that regulate the actions of agents in situations where there is interdependence of outcomes. Interdependent outcomes are outcomes which cannot be achieved by the agent independent of the actions of others. For example, a certain degree of safety in traffic cannot be accomplished by a single participant. The rules of traffic typically regulate and coordinate each participant's actions such that this degree of safety can be achieved. Similarly, consider the sort of informal norms to which parties in bargaining situations sometimes make an appeal, e.g., "split the difference". The bargaining result is not one that could be ensured by either party without the other. Another example is the legal rule that requires respecting property. One single agent could not secure the survival of the institution of property unless (sufficient) others respect property as well.

There are, however, norms which do not fit the conventionalist analysis. There are norms which are probably best characterized as *personal norms*. They are standards of conduct that agents use to judge their own actions. For example, the science fiction writer Isaac Asimov made it a rule to write at least ten pages a day, six days a week. This was not just a habit but

something he forced himself to do.⁸ Another example is that of Lord Russell in Great Britain during World War I who refused to join the army.⁹ The standards by which he evaluated his conduct are not the sort of norms that fall within the scope of conventionalism.

The next thing to notice about this description of the theoretical status of conventionalism is that the analysis is not restricted to either moral or nonmoral norms. Some social norms are decidedly moral, e.g., the norm that prohibits unjustified killing (murder). Others are nonmoral, like the norm that requires the traffic to drive on the right side of the road. The relation between social norms and moral norms therefore is one of partial overlap.

It is important to appreciate one assumption which is implicit in conventionalism. There is a distinction between what constitutes a social norm and what establishes a *just* social norm.¹⁰ For example, in the Confederate States before the Civil War, slavery was an accepted institution. The rights it gave to slave owners were based on the norms of that institution. However, those norms were obviously not just. Conventionalism offers an account of social norms and not an account of what makes a social norm a just norm.

Having limited the scope of conventionalism, we need to clarify the notion of social norms. In this section I will discuss what makes social norms *social*. My aim is to clarify interdependence of outcomes. I will do so using the notion of collective goods. Social norms should be understood as norms regulating the production, distribution and consumption of collective goods. The other task, the discussion of what makes social norms *norms*, is postponed to the next section. Only then will we be in a position to judge the merits of the conventionalist approach and to see in which regard the challenge to reductionism is relevant.

Russell Hardin defines public goods as those goods whose consumption is characterized by *jointness of supply* and *impossibility of exclusion*.¹¹ Jointness of supply means that the consumption of the good by one person does not affect the consumption of any other person. The use a ship captain makes of a lighthouse does not diminish the possible use another captain could make of it. Jointness of supply should not be confused with abundance. It may be true that under actual historical and social conditions a certain good is amply provided so that there is more than enough for everybody. However, that does not imply that consumption by one person actually leaves as much of the total amount, which is required if it is jointly

⁸ Asimov (1973, 10).

⁹ Monk (1996).

¹⁰ This echoes the distinction Hart (1963) makes between *social morality* and *critical morality*.

¹¹ Hardin (1982, 17). These requirements are given by Samuelson (1954) and Olson (1965), respectively. These two criteria are the usual ones among social scientists. See for example, Riker and Ordeshook (1973).

supplied. It is clear that there are hardly any goods, if at all, that have this characteristic. For almost every good it is true that consumption of one agent diminishes what is left for the other. As the environmental crisis has taught us, even clean air, the classic example of a supposedly jointly supplied good is not inexhaustible. So we better drop the requirement of jointness of supply in the analysis of collective goods.¹²

As it turns out, the other requirement, the impossibility of exclusion from consumption, is the important one. This impossibility refers to situations where for some reason it is true that if the good is produced it is not feasible to exclude persons from using, consuming, the good. This impossibility may be implied in the nature of the good. For example, once a lighthouse is operational, it is impossible to provide its services only to some and not to others.

The impossibility may also be attributed to more pragmatic considerations. For example, in theory, it is possible to put up pikes on every public road, thus excluding those who do not wish to contribute to the road. However, it may turn out that this solution leads to a costly and inefficient infrastructure. In other words, the costs of individuation of consumption of the good may outweigh the benefits of its production. That would establish a good reason for a government to treat roads as public goods and to pay for them from the collective means, i.e., taxes.

Finally, there may be moral considerations to reject individuation of consumption of certain goods. For example, some argue that health care is too important a service to allow its distribution to be governed by the market. Access to health care should be open to those who need it, regardless of whether they can pay the actual cost. This is a moral reason to supply health care as a public good that is financed using collective means.

From now on, following Hardin, I will use the term *collective goods* to refer to those goods that have the characteristic of impossibility of exclusion from consumption, and talk of *collective action* when I refer to actions directed at achieving those goods.¹³ As we shall see, it is precisely because the consumption of collective goods cannot be individuated (for example, by pricing it) that compliance to norms regulating their production, consumption, and distribution is problematic. In most Western societies collective goods are provided out of collective means, usually through the revenues of taxation. Consequently there is a norm to pay taxes in these societies. Now compliance to this norm is not straightforward. An individual agent would benefit most if the good is provided, that is, if everybody pays their taxes but she herself does not. Moreover, if she expects that others will not pay either, she generally has no reason to pay her taxes. For it cannot be expected that her individual contribution will suffice to pay for any amount of those goods which will make payment worthwhile. So regardless of what she expects the others to do, she has no

¹² I am following Hardin (1982) here.

¹³ Hardin uses the term *collective goods* or *group goods*.

<http://www.springer.com/978-1-4020-0639-5>

Instrumental Rationality and Moral Philosophy

An Essay on the Virtues of Cooperation

Verbeek, B.

2002, XII, 292 p., Hardcover

ISBN: 978-1-4020-0639-5