

Andrei Marmor: *Social Conventions*

Princeton University Press, Princeton, 2009, xii + 186 pp.

A few decades ago, only isolated groups of philosophers counted the phenomenon of normativity as one of their principal interests. Rules and norms have always, of course, been in the purview of moral philosophers, who often took them as exceedingly abstract entities, if not directly metaphysical. Philosophers from the border territories of philosophy and social sciences, on the other hand, were interested in more concrete norms, namely those that emerge and survive within human societies. Philosophers of law stood between these two extremes, studying law as a matter of socially instituted norms which, however, might be seen as a projection of something more esoteric. The research programs of these groups of philosophers had little overlap. And for philosophers of mind, of language, or of science (with the exception of a few philosophers of social sciences, such as Peter Winch), norms were at most only of marginal interest.

This situation has changed hugely over recent decades. I think the catalyst was the interest in rules and norms within the philosophy of language, which was kindled by the ongoing reception of the later Wittgenstein. Other philosophers, like Michael Dummett and Wilfrid Sellars, also deserve part of the credit. Via philosophy of language, interest in norms invaded sections of philosophy of mind, too, and the previously isolated studies of various types of norms slowly became interconnected, if not directly integrated. No wonder that more and more general studies of the nature of rules and norms are now reaching the light of day. Andrei Marmor's *Social Conventions* is one of the most recent contributions.

Marmor sees a social convention as a specific kind of norm characterized especially by its arbitrariness. More precisely, a rule is conventional, according to the author, iff (i) some people follow it; (ii) they have a reason to follow it; and (iii) there is an alternative rule that they could have followed for the same reason. The point of departure for Marmor's analysis is David Lewis's theory of convention,¹ which, however, he considers too narrow and hence extends it considerably.

¹ Lewis, D. (1969): *Convention*. Cambridge: Harvard University Press.

Lewis's idea is that norms result from certain spontaneous processes by which society reacts to *coordination problems*. (For example, it is useful for a society when everybody uses the same side of a road, be it the right or the left; for if this is the case, collisions are hugely reduced. Now, converging to one of the two sides may happen not as a result of anybody's willful coercion, but instead, automatically, as a result of some spontaneous process.) Marmor upgrades on Lewis in two important respects. First, he denies that all conventional norms are viewable as responsive to coordination problems. Marmor proposes recognizing another large class of social norms, which he calls, following Searle, *constitutive*. These are the norms which do not regulate existing activities (like walking), but constitute new activities in the first place (like chess). The second improvement, in comparison with Lewis, is the distinction between what Marmor calls *deep* and *shallow* rules. There are concrete (shallow) conventions, Marmor contends, such as the rules of chess, and there are more abstract (deep) conventions that underlie these, such as the conventions governing games of such a kind in general, setting down, as it were, the sense and purpose of the games.

Both these upgrades on Lewis's theory are substantiated and laudable; however, I think they do not go far enough. Let me start with the second upgrade. I think that despite its rational core, the dichotomy between deep and shallow norms in the form the author presents it, is untenable. Yes, some norms may be seen as underlying other norms and being in this sense deeper, but such norms may be underlain by still other norms; hence what seems to me to be in question is a multi-layered motley of norms rather than two layers.

But this is not an important point. The objection I have to the first upgrade is much more substantial. Though Marmor correctly recognizes that not all conventions can be seen as the result of calibrating coordination equilibria, he still thinks about conventions exclusively in terms of cooperation. I am afraid that this is wrong-footed: surely, most norms of human societies have more to do with coercion than with cooperation. Marmor rightly says that aside of systems of rules in respect to which I can both "opt in" and "opt out", there are systems to which I am bound by default and the only thing I can possibly do is "opt out", but this important fact is not projected into his theory of how rules are established.

One would think that a prime example of coercive rules are those which tend to find a way into the criminal code. But Marmor does not count such norms among conventions, as, according to him, they are “institutionally enacted rules”, and form a subspecies of constitutive rules distinct from social conventions (p. 35). This seems to suggest that rules are conventional only to the point where they become institutionalized, which may seem to sound reasonable. However, it opens a Pandora’s box of questions. What exactly is an institution? Is a World Chess Federation that publishes official rules of chess an institution? And if so, why are chess rules, which are used as an example of social convention throughout the book, not “institutionally enacted”? Or if a mafia follows the unwritten rule of *omerta*, requiring that no member ever spills the beans, is it “institutionally enacted”, or not?

It seems to me that the exclusion of “institutionally enacted” rules from social convention only supports an unrealistically over-intellectualized approach to norms that follows from the author’s assumption that norms require reasons for which they are followed. I think that unless we construe the term *reason* excessively widely, so as to become synonymous with roughly a “motif” in a psychological sense, this is simply wrong. Moreover, we cannot build a reasonable theory of norms on this foundation. One reason has already been mentioned: I do not think anybody has reasons for all the norms and rules (s)he follows. In many cases (s)he has been introduced, and become party to them, at an age too young to think about reasons, and it might never come to mind to ask for them even at a later age.

But this is still not the most crucial problem. The decisive argument about letting the concept of rule rest on the concept of reason is that reasons and reasoning can exist only within what Sellars called *the space of reasons*, and such a space is constituted by certain rules. Hence I think reasons must rest on certain rules and cannot underlie all rules.

What I see as a weak point of the book are the shaky conceptual foundations on which it builds. At the beginning of the book, Marmor says that a rule is “a content of a linguistic form”. Given that this concept lays in the foundation of everything else in the book, this seems inadequate as an explanation. Content of which kind of linguistic form? Probably not “A cat is on the mat”. So perhaps of an imperative? But should the content of the sentence “Pass me the salt!” be a rule?

And is the identification of rules with content of linguistic form to be read as saying that there are no rules without language? Or does it mean merely that it is a *potential* content, which may not become actual because language is missing? But is there anything we are sure is not a potential content of an expression of some language?

Later, Marmor returns to the concept of rule once more. "Without an attempt to define what rules are," he writes (p. 13), "we can say at least this: the basic function of rules of conduct is to *replace* (at least some of the) first-order reasons for action." Even leaving aside the fact that the reader may legitimately wonder why a book about a subspecies of rules should not contain an attempt at a definition of rules, this is surely not tenable. Take the constitutive rules Marmor discusses at length, such as the rules of chess: what kind of reason does the rule that a bishop can move only diagonally replace? Moreover, it reinforces the picture of reasons existing independently of rules and thus being able to precede and underlie rules, thereby making reasons not only into unexplained explainers, but, as I indicated above, *unexplainable* explainers, and this is hardly acceptable.

Marmor further says that a *social rule* or a *norm* is a rule that is "practiced". But what does it mean that a content of a linguistic form is practiced? Of course, one can conjecture what the author has in mind (namely that a norm is something like an imperative that is regularly obeyed), but books of this kind are written precisely to make such foundational things fully explicit, which is what Marmor fails to do.

Another part of the book which I find deeply questionable is Marmor's considerations concerning language. He discusses what he calls the literal meaning of words, and argues for the conclusion that they are not conventional. But I do not find his argument really intelligible. What he contends is that it is questionable whether the rules establishing the meaning fulfill the third clause of the definition of conventionality, namely that they have equally reasonable alternatives. Marmor writes (p. 88): "There are several categories of words that should immediately raise suspicion: logical connectives, natural kind predicates, first-person pronoun, and so on." At first sight, it would seem that what Marmor wants to say is that it would be suspicious to consider the relationship of a word, such as the English "and" or the English "I", with whatever these words mean, conventional. This would be weird, for it seems that the association of these particular

types of sounds or inscriptions with the particular meanings they have is conventional if *anything* is.

However, this is *not* what Marmor has in mind. On p. 90 he agrees that “the notation (viz., sound-sense relation) is conventional, of course, but not the literal meaning of the word”. Hence, does he mean that considering meaning as an entity, the entity itself is generally not conventional? This might be true (depending on our precise construal of the concept of *meaning*), but trivially so: for example, whatever we think it is that is denoted by the English “and”, the entity would not seem to be reasonably called “conventional”. In fact, it is not even clear what it would mean to say that an entity is conventional – we know how to apply this adjective only to rules, practices and the like.

Anyway, even this cannot be what Marmor means when he says that literal meaning is not conventional; for one of the examples he discusses is the word *chess*, which *does* denote something conventional (at least it is listed among the paradigmatically conventional activities throughout the book). Hence the sense of his claim that *literal meaning is not conventional* must be still a different one. But what is it? The last possibility for what Marmor might have in mind I can see is that it is not conventional which particular meanings are expressed by linguistic expressions of a language. Thus, perhaps, it might be considered a matter of some kind of necessity that every language has an expression meaning what “I” means in English. But again this option does not seem to be viable. Take logical words. Is it a necessity that a language has a word expressing, say, an implication? But what kind of implication? We can consider the classical (material) one, the intuitionist one, the strict one, etc. etc. *Which* one of them is necessarily present? (And indeed, the question as to how far the meaning of the English “if ... then ...” coincides with that of any of these operators is subject to wide controversies.)

Unclearities of this kind plague the conceptual framework of Marmor’s book to such an extent that it is prevented from fulfilling its aim: namely the clarification of what social conventions are. I am afraid a contemporary upgrade on Lewis’s theory of convention, taking into account what we have learned about rules, norms and conventions since its publication, is still to be awaited.

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