All Together Now: Conventionalism and Everyday Moral Life

Associative duties (also called "role obligations" or "special duties") are moral duties[1]

that particular people have to other particular people or groups in virtue of some socially-

recognized relationship like that of friend, family, co-worker, or compatriot. Taken together

these duties make up the core of our moral lives, but their justification has been elusive. What I

will call "conventionalism" offers a justification. It defends the claim that the mere occupation of

a socially-recognized role or relationship generates moral duties that are defeasibly legitimate

and (pro tanto) ought to be discharged, given that a system of social institutions is morally

necessary. It is a surprising view in that most contemporary accounts of associative duties take

its denial as a starting point.[2] It is an unsurprising view in that it hews closely to our common-

sense thinking about what we ought to do and why. The aim of this paper is to restore

philosophical respectability to our common-sense thinking about everyday moral life.

A conventionalist theory of associative duties has two separate components. The *first* is

an explanation of what is necessary to the kind of social coordination that characterizes social

institutions built largely on convention. I show that moral duties generated by social convention

will meet two important constraints. These two constraints must be met in order for people to

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[1] Although some distinguish between duties and obligations, I will use these terms interchangeably.

[2] The accounts given voice in the literature can be categorized according to three types of justification they appeal to. "Voluntarist" accounts justify associative duties as analogs of promissory obligations; we acquire associative duties when we voluntarily enter into a social role to which these duties are attached (Simmons 1979, 1996a, 1996b, 2001; Stocker 1970; Slote 1979)."Instrumental" (also called "dependent" or "external") accounts justify particular kinds of associative duties as a means to discharging a general moral duty (Sidgwick 1874; Rawls 1971: 334; Pettit & Goodin 1986; Nussbaum 2002; Gewirth 1986; Klosko 1992, 1994, 2004; Shiffrin 1999; Pallikkathayil 2010). "Objective-value" accounts justify associative duties as constituents of objectively valuable relationships. These relationships are either constitutive of a person's identity or they are indispensible in realizing some other objective human good(s) (Scheffler 2001; Hardimon 1994; Kolodny 2010). Elsewhere [omitted] I argue that these accounts are unsatisfactory. Here, I provide an alternative.

coordinate enough to allow social institutions to get going and to sustain themselves. The *second*

part is an explanation of the moral significance of coordination when it occurs. It provides a

general moral justification of associative duties, explaining when and how social institutions

generate genuine moral requirements (for example to care for one's parents or keep one's

promises), as opposed to spurious ones (for example to bind one's daughters' feet). This

justificatory part of conventionalism depends for its plausibility on the two constraints detailed in

the first part. The constraints are crucial because they show why common types of objections to

associative duties are misguided.

1. Conventional Norms, Merely Conventional Norms, and Conventional Moral Duties

Much of our social life is governed by social institutions.[3] Social institutions are systems

of rules and procedures that give rise to social practices, assign participants to roles[4] in these

social practices, and specify the norms by which occupants of those roles interact with one

another. Social institutions are types of social convention, because part – though not all – of the

reason for conforming to them is that others conform, too.[5] Social conventions consist of

"conventional norms" – standards of behavior that participants in the conventions expect each

other to meet. To describe such standards of behavior as conventional norms does not

presuppose any moral endorsement of the norm. Conventional norms may or may not be morally

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[3] The family, the military, the legal system in the United States, and the Catholic Church are social institutions. Particular families, platoons, courts, or churches typically are not (even though platoons and churches survive changes in membership). Social institutions vary in the specificity of the roles they can engender, how much variation there is among the roles, and how rigidly the roles must direct the behavior of those who occupy them.

[4] The roles specified by the institution are plans that help guide the behavior of the members. Members will see their behavior as explained by or given meaning by the roles they are filling, and can properly interpret the behavior of other members in virtue of the roles they fill. They will take their occupation of a role as properly figuring into their deliberation about what to do in particular situations, and they will expect that other members will do the same. While the roles of parent or sibling are *specified by* the social institution, they are *filled by* the individual members of each family.

[5] The characterization is minimal, and mostly consistent with competing views of convention. See, for example Lewis 1969; Gilbert 1990, 1992, 1999; Millikan 2005; Burge 1975; Miller 2001.

justified. In this way conventional norms are social facts, the subject matter of social scientists. When conventional norms are not also morally justified or morally binding, they are "merely conventional" norms. Conventional norms that are morally justified and morally binding are "conventionally-mediated moral duties" (or simply "conventional moral duties"). This paper sketches an account of how conventional norms gain the additional status of being conventional moral duties.

From the point of view of normative moral theory, it is widely agreed that there are conventional moral duties if there are any moral duties at all. What makes these moral duties conventional is that social institutions, such as the institution of promising, are (at least) *instrumental* in generating them.[6] That is, a social institution is at least part of the means by which a genuine moral duty devolves to us, and it plays some justificatory role in specifying what the contours of that genuine moral duty are. The moral duty to drive on the right vs. the left side of the road (or vice versa) is a clear example. But so are moral duties that are far less arbitrary, such as the requirement to pay taxes. Most of what we think of as legitimate associative duties will be conventional moral duties in this sense. So, for example, children might be expected to maintain their elderly or disabled parents, neighbors might be expected to lend sugar or raise barns, and professors might be expected to grade their students' papers. To say that a moral duty is conventional does not imply that there are no good moral reasons to pay taxes, keep ones promises, or take care of one's children, parents or neighbors apart from the existence of a convention. But the social convention determines or, at the very least, defines the

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[6] Neither conventionalists about promising ([omitted for blind review]; Kolodny and Wallace 2003; Gauthier 1986; Rawls 1971:344-350; Hooker 2000; Hume 1740: 516-525; Grotius 1625: chapter 11; Pufendorf 1672: Book 3 chapters 5-8) nor anti-conventionalists about promising (Thomson 1990: chapter 12; Scanlon 1999: chapter 7; Shiffrin 2009; Owens 2006, 2008; Mason 2005) dispute, for example, that a social institution is at least instrumental in generating promissory obligations in the sense described here.

contours of these duties.[7] This is not the case for genuine moral duties that are not

conventionally-mediated at all, like our duties not to rape or murder. This is because, although

refraining from rape and murder are norms that people follow and expect others to follow, the

existence of a social convention does not play a part in justifying these norms. That is, social

conventions are not *instrumental* in the sense described above.

2. Constraints on Conventional Norms: Accessibility and Regularity

Let us now turn to the constraints that conventional norms will meet. First, it will help to

define some terms. Social conventions are maintained by their "participants." The participants of

a convention are normally 1) those to whom conventional norms devolve, per the convention, 2)

those who are the beneficiaries of those norms, per the convention, and 3) those who enforce

compliance.[8] The content of the convention's norms are its "success conditions." The conditions

under which participants are subject to the convention's norms are its "applicability conditions."

In other words, the success and applicability conditions tell participants what's to be done and

who's supposed to do it, respectively.

The special (and underappreciated) characteristics of conventional moral duties are due to

the fact they are mediated by social convention. They will therefore normally conform to two

key constraints that make social conventions possible. The first is what I call the "Accessibility

Constraint." It says that conventional norms will not normally depend on features of a situation

that are inaccessible to typical participants. That is, neither their applicability nor their success

conditions will normally depend on features of a situation that not all parties to the requirement

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[7] This role for conventions is endorsed in Sidgwick 1874; Nagel 1979 chapter 6; Held 1984 chapter 3; Luban 1988 chapters 6,7; Korn 1983; Simmons 1996; Pettit and Goodin 1986; and Pallikkathayil 2010.
[8] The ways in which compliance is enforced depends on the convention. Enforcement mechanisms may take the form of social censure or more formal penalties.

can know in a straightforward way. The rationale for the Accessibility Constraint is that conventions are social practices that people follow at least partly because other people follow them, too. That means that, if a norm is a conventional norm, participants have to be able to tell when others are conforming to the convention and when they aren't. Otherwise, the convention would not be able to sustain itself. Of course, this does not imply that a convention's ability to structure participants' expectations (or help participants establish expectations in each other) provides the primary moral justification for the existence of any convention or conventional moral duty. Nor does this take a position on competing theories of social convention. But whatever ultimate explanation of conventions are correct, and whatever the moral point and purpose of conventions are, they must be able to structure expectations of participants as at least a means to achieving that point or purpose.

Evans-Pritchard's (1976) now-famous accounts of Azande "poison oracles" illustrates the first constraint. According to Evans-Pritchard, the Azande had a ritual designed to identify witches believed to cause various types of misfortunes. The ritual was a type of divination procedure performed by an oracle. During the divination procedure, the oracle administered a toxic substance to an animal after asking about one of the suspects whether or not he was the witch. If the animal died, the answer was "yes." If the animal recovered, the answer was "no," and the oracle would continue the process until he exhausted the list of suspects. The findings of this divination procedure were "binding" (as per the convention) on the community. Once a witch was identified in this way, he was expected to make amends to the victim(s) of the misfortunes. The community was expected to accept specific performances as signs of rehabilitation.

Leaving aside whether or not the conventional norms governing poison oracles are also conventional moral duties, let us grant that the divination process never correctly identifies witches (since witches don't exist). Rather, the applicability and success conditions of the convention depend only on accessible features of the situation, namely the death (or restoration to health) of an animal in the course of the divination procedure. This must be the case, since the convention would have collapsed if the applicability or success conditions depended on the existence of witches. But the convention did not collapse. It was capable of structuring participants' expectations about what others would do (make amends and seek rehabilitation) and also gave them guidance about what course of action to take in particular situations. It provided an important way peacefully to resolve conflicts and prevent an escalation of hostilities in Azande society.

The Accessibility Constraint explains one of the special characteristics of associative duties: the applicability and success conditions of particular associative duties typically cannot depend on the actual internal mental states of participants, *if these are different than their outward indicators.*[9] This is because internal mental states, insofar as these differ from outward indicators, are typically not accessible to participants. This is not meant to be a controversial claim or to express skepticism about other minds. It is merely the commonsense view that in many cases our access to the details of others' motives, intentions and other internal mental states typically proceeds straightforwardly through outward indicators such as testimony or behavior, however subtle and nuanced. Sometimes those indicators are absent or the access they provide is unreliable. But since much of the time those indicators are present and reliable, we

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[9] The importance of the Accessibility Constraint for theories of promissory obligation in particular is detailed in [omitted for blind review].

often do in fact know what others are thinking, what they are motivated by, and what their intentions are.

The second constraint is what I call the "Regularity Constraint." It says that the applicability and success conditions of conventional norms will not typically depend on features of a situation that are overly unusual. The motivation for the Regularity Constraint is that a regularity of behavior is part of the means by which conventions structure the expectations of participants. Social institutions are constituted by a regular conformance to the applicability and success conditions of the duties attached to social roles. Absent a code stipulated in advance (as in legislation), this regularity is part of the way that typical participants know what specific duties attach to various social roles, and also part of how the occupation of a social role explains occupants' behavior. But features of participants' situations that are overly unusual have not been encountered sufficiently often to enable a conventional response. Therefore the applicability and success conditions of conventional norms will not normally depend on these features. This is why the applicability and success conditions of conventional norms will normally conform to the Regularity Constraint.

The Regularity Constraint does not rule out nuance and complexity in human social conventions. Nuance and complexity are importantly different from irregularity and novelty. The kinds of complexity and nuance that social institutions can track will be part of the foreseeable circumstances of human life as it plays out in a particular kind of society. Given recurring human dispositions, there will often be a pattern to the kinds of circumstances that are foreseeable or regular. For example, many types of social relationships are characterized by asymmetries of vulnerability or dependence, such as those of spouses or parents and children. In these types of relationships the danger of abuse will almost always be foreseeable and the

instances of abuse will probably not be unusual. That is why conventional responses to such circumstances will be common, for better or for worse. Since child or spousal abuse is common or foreseeable, then the effect of such abuse will normally be part of these social institutions as they are specified. Sometimes those circumstances (of abuse, say) alter the socially-recognized rights and duties attached to these roles. Often, institutional responses are morally objectionable, as they certainly once were (and perhaps still are in many places) in these cases in particular. In any case, only when circumstances are part of the foreseeable or regular complexities of human life will the applicability and success conditions of conventional norms typically depend on them. So while conventions are able to tailor rights and duties to the needs of tea ceremonies, honorifics, and long-form improvisation, they cannot tailor them to those beset by science-fiction scenarios.

The Accessibility and Regularity Constraints together explain an important structural feature of conventional moral duties: they will be merely "pro tanto". A pro tanto moral duty is similar to what has been called by others "prima facie duty" (Ross 1930:19-22), "pro tanto reason" (Kagan 1989:17-22), "ground of obligation" (Herman 1993), or simply "consideration that counts in favor of an action" (Scanlon 1999; Dancy 2004). That is, pro tanto duties give us moral reasons for action even though these reasons may be outweighed – but not nullified altogether – by other moral considerations. They contribute to deliberation about what to do, but they are not dispositive of what a person ought to do all-things-considered. The fact that our actions are socially embedded helps explain this widely-acknowledged structural feature of many of our moral duties. That conventional moral duties are merely pro tanto follows from the Accessibility and Regularity Constraints together with the fact that what one ought to do all-things-considered *may* depend on one's internal mental states (such as one's intentions and

motivations) or one's unusual circumstances. While social conventions cannot take our secret

agendas or uniqueness into account, this does not mean that morality cannot render a precisely

tailored verdict in what we ought to do all-things-considered.

In addition to explaining an important source of the "pro tanto," the Accessibility and

Regularity Constraints play a crucial role in a theory of associative duties. Their operation helps

defuse objections to the second, or justificatory, part of a conventionalist theory. Let us turn to

this part now.

3. How Conventional Norms Become Conventional Moral Duties

A conventionalist theory of associative duties is predicated on the below three claims:

1) *Moral Necessity*: Human society, constituted by a web of interrelated social

institutions,[10] is necessary for the provision of important human goods. Social

institutions in turn necessarily specify social roles, which are constituted by clusters of

conventional norms.

2) *Moral Efficiency*: A particular conventional norm is morally efficient if it does not

violate, all-things-considered, overriding moral considerations in the *typical case*. The

moral efficiency of a conventional norm is determined by the overall effect of its

observance on those who participate in, or are otherwise affected by, the actual

interrelated web of social institutions of which the norm is a part.

3) *Presumptive Legitimacy*: Each particular conventional norm is presumptively also a

conventional moral duty. That is, it is pro tanto morally binding, *unless it is not*

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[10] Social institutions are "interrelated" when the norms governing the social roles in one institution have an effect on those of another, or when the norms governing social roles are regulated by a common governing social or legal structure.

morally efficient. If a conventional norm is not morally efficient, then it is a merely conventional norm and therefore lacks moral force. Merely conventional norms are not even pro tanto morally binding.

In the remainder of this section I will say more about why these three claims are plausible. Taken together they express the basic idea that, since social institutions are morally necessary for various reasons, the particular conventional norms that are generated by them are presumptively morally legitimate, or binding, pro tanto. Particular associative duties are therefore similar to particular laws in the way that they are justified. If some legal system or other is morally necessary, and a particular legal system passes a threshold of justice, then a particular law generated by that legal system is pro tanto binding (though not dispositive) unless that particular law is nullified by offending the standards of justice. In a legal system, the justificatory burden does not lie with each particular law. We do not have to show that each particular law is itself morally or legally necessary, or even that some law of a certain kind is necessary. It is enough that it is not too objectionable. Conventionalism's three claims embody a similar justificatory structure for any moral duties mediated by social convention, including but not limited to associative duties.

The claim of Moral Necessity has been defended, in some form or other, widely in the literature already. I will only briefly summarize some of those efforts here. It has been argued, for example, that social institutions are a precondition for having morally valuable interpersonal relationships (Scheffler 2001; Hardimon 1994); that social institutions support our exercise of autonomy and self-determination (Rousseau 1762; Blum 1996; Kymlicka 1989; Sandel 1982; Rawls 1971); that social institutions (especially political or legal institutions) help "settle" or

"determine" natural or moral law (Locke 1689; Pallikkathayil 2010); that social institutions decrease the likelihood of making "moral mistakes" ([omitted for blind review]); that social institutions decrease the moral cost of discharging our duties (Garthoff 2004; [omitted for blind review]); that social institutions help us discharge our duties of beneficence by solving coordination problems, efficiently dividing the moral labor, and encouraging compliance by establishing relationships to which people have deep emotional attachments (Sidgwick 1874; Nagel 1979; Held 1984; Luban 1988; Hardin 1996; Pettit & Goodin 1986; Simmons 1996); and that social institutions have "adversarial" justifications (Smith 1776; Madison 1788; Montaigne 1572-1592). Conventionalism, and in particular the claim of Moral Necessity, depends on the plausibility of some constellation of arguments made in that literature.

The claim of Moral Efficiency expresses the view that conventional moral duties are to be justified in much the same way that public policies are justified, while remaining neutral with respect to the correct general normative theory that justifies them. Thus, although conventional moral duties will be morally *efficient*, they need not presuppose a *consequentialist* normative theory. Overall effects of a particular conventional norm that are relevant to its justification may very well include, among other things: i) whether it is overly demanding for typical participants; ii) whether it excludes classes of people from the benefits of social cooperation; iii) whether it exploits classes of people or typical role-bearers; iv) whether it gives improper weight to typical participants' autonomy and self-determination; v) whether it harms typical participants physically or psychologically; or vi) whether it is inconsistent with our general duty of beneficence, as determined by the correct normative moral theory. Thus Moral Efficiency is concerned about effects only in the minimal sense that any plausible normative moral theory is concerned about effects, whether that theory is consequentialist or not. What is important about

Moral Efficiency is not that effects on participants play a role, but that it is only effects on participants in the *typical case* that matter. Morally objectionable effects of observance in *atypical cases* will play no justificatory role at all. In particular, morally objectionable effects in atypical cases will not prevent a conventional norm from being a conventional moral duty. In such atypical cases, the conventional moral duty will be overridden, perhaps decisively so. It will not, however, be nullified ab initio. The claim of Moral Efficiency says that nullification happens only when the conventional norm has morally objectionable effects in *typical* cases. That is what makes the justification of associative duties similar to the justification of public policies. A particular public policy (like seat-belt laws) may be morally justified even though in atypical cases the effect is morally objectionable (resulting in the harm rather than the preservation of a particular individual). Such atypical cases will not impugn the policy itself. Atypical cases are similarly peripheral to the justification of conventional moral duties. Since they are merely pro tanto, the morally right thing to do all-things-considered may be to fail to conform to one's conventional moral duty. Sometimes we morally ought to break just laws and binding promises. The fact that we ought sometimes to break just laws and binding promises does not in itself nullify the moral force of such laws and promises altogether. Conventionalism explains this "residue" as a fact about moral theories that take our social embeddness seriously. Conventionalism says that the typical moral circumstances of others make a moral difference for *everyone*, even the atypical.

The Regularity Constraint helps to explain why, if there are any conventional moral duties at all (and there almost certainly are), then their justification will track only their moral efficiency or something like it. So we will not learn anything about the moral justification of particular conventional norms by considering overly unusual cases. This is because, according to

the Regularity Constraint, our verdict on such bizarre cases will not generalize. The Regularity Constraint therefore functions to impugn counterexamples from unusual cases as a way to justify or refute a given associative duty. These kinds of arguments from counterexample fail because the Regularity Constraint rules out appeal to our moral verdicts in unusual cases as a way to inform our moral verdicts in typical cases. So this is an important result of conventionalism. It both explains and predicts some important limitations on the use of arguments from counterexample in ethics. Of course, because conventional moral duties are merely pro tanto, what a person ought to do all-things-considered in light of a particular conventional moral duty need not be morally efficient. Because a person's all-things-considered moral duties do not conform to either the Accessibility or Regularity constraints, her conventional moral duties may be overridden, and decisively so, even if those duties are morally unimpeachable in the typical case.

The claim of Presumptive Legitimacy, too, tracks the structure of moral deliberation in everyday life. When we deliberate about what we ought to do in particular situations, this will often take the following form: "I should do φ because I am an associate of type ψ." We see this template everywhere: "I should visit him in the hospital because I'm his friend," "I should be faithful because I'm her husband," "I vote because I'm a citizen," and "he's my neighbor so I'll lend him some sugar." If we have to justify our actions to other people, there is often no clearer way of doing so.[11] Since people often think of their associations as a reason to do a particular

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[11] This is not to say that an individual cannot reason independently of her associative duties with regard to what she ought to do qua occupier of a given role. A person may, for example, feel that her duties qua occupier of the role ought to be different than what they are. In that case, she may be justified in refusing to discharge specific duties. If enough people do so, the role itself will evolve, because the conventional norms that attach to that role will have changed. That sort of transformation might have taken place (or might be still taking place) within spousal roles, for example. The important thing is that, when occupiers of the roles are engaged in this process, they are not appealing to the mere fact of the association to explain what they do. So, while a wife might say that she saves her drowning husband "because he's her husband," she will likely explain her decision to start a career rather than be a

thing, a non-reductive explanation of associative duties hews most closely to the phenomenology. So "because I'm a parent" is not meant as short-hand for the results of any general moral principle like beneficence or reparation. Nor is it meant as short-hand for the benefits that accrue to a particular individual under this association or the fact that certain voluntary steps were taken in order to acquire the association. Rather, "because I'm a parent" refers only to the occupation of a certain role, or the mere fact of an associative relationship. But while we take the fact of an association at face value when we deliberate, this has seemed to raise problems for a moral theory. This is because some associations may be for particular people burdensome or non-voluntary, and this fact may seem to impugn any claim of Presumptive Legitimacy.

In order to get clearer on what can be said in defense of Presumptive Legitimacy, it will help to consider its denial. This can be expressed as the principle of Presumptive *Illegitimacy*. This is the claim that conventional norms are presumptively *not* binding pro tanto. It expresses the idea that the burden of proof lies with showing, on a case by case basis, why a particular conventional norm has moral force. The positive case for Presumptive Illegitimacy is that it seems to follow from a moral commitment that is both widely shared and intuitively appealing, namely that a state of moral liberty is justificationally privileged. People do – and should – value their freedom. The principle of Presumptive Illegitimacy is therefore the basis for prominent "voluntaristic" theories of obligation (especially, though not limited to, political obligation). This positive case is further bolstered by putative reductios of Presumptive Legitimacy built from

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homemaker in a different way – a way that does not appeal to her role. This is analogous to a person citing grammatical rules when they explain why they take pains not to split an infinitive. Those who decide to split the infinitive after all will not cite the rules of grammar, but efficiency or expressivity as a reason for doing so. If enough people start splitting the infinitive, the grammatical norms themselves will change.

rhetorically powerful counterexamples.[12] These reductios have been very influential, and are the main reason why, as mentioned in the introduction, most theories of associative duties have taken a denial of conventionalism as their starting point. But on closer inspection, it turns out that 1) conventionalism as a whole (of which Presumptive Legitimacy is a part) is consistent with the justificational privilege of moral liberty; and 2) conventionalism cannot engender the types of reductios prevalent in the literature. The upshot of this closer inspection is a defense of common-sense thinking about everyday moral life.

Conventionalism is consistent with even the most robust commitments to moral liberty, including a commitment to freedom as the foundational moral value. (Of course, because it is neutral with regard to the correct normative moral theory, it is also consistent with theories that lack such a commitment.) According to conventionalism, individuals may very well begin from a baseline of liberty. It's just that departures from this baseline are explained in a novel way, and at different points in the justificatory story. The first departure comes with the moral necessity of social institutions. Social institutions are morally necessary according to most plausible normative moral theories. Their moral necessity therefore justifies, *ceteris paribus*, the conditions under which they are possible, including the attachment of rights and duties to social roles antecedent to these roles being filled by individuals. Because social institutions are interrelated, the rights and duties attaching to social roles affect those of other social roles. The sum of social institutions that make up a particular society is therefore like an inseparable web of conventional norms. The claim that moral liberty is justificationally privileged is therefore consistent with the claim that individuals are bound to comply with this web of conventional

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[12] Cite Simmons and Hume and others who deny that mere membership in a social group could ground duty

norms, even if all of them are quite burdensome and not at all voluntary. Morality – even if it is committed to freedom as a foundational value – never promised us a rose garden.

The real question is: given that a web of social institutions is morally necessary, how do we avoid the conclusion that people are morally bound by conventional norms even if they are *overly* burdensome, oppressive, arbitrary, or downright evil? Given the moral necessity of social institutions, the justificational privilege of moral liberty cannot by itself explain how to avoid this conclusion, which is what we were really after. We want a theory that tracks our considered, common-sense judgments about particular cases. We want a theory that can avoid reductios that claim we ought to do things that we know we ought not do. Conventionalism tracks our considered judgments and avoids reductios because particular conventional norms that are typically overly burdensome, oppressive, arbitrary, or downright evil will be nullified ab initio according to the claim of Moral Efficiency. Moral Efficiency therefore gives us the second – and more important – safeguard of moral liberty. If the correct normative moral theory predicts that a particular conventional norm is morally offensive and therefore lacks any moral force, then so will conventionalism. So, even though social institutions are morally necessary, conventionalism is consistent with the claim that slaves have *no* moral reason (not even pro tanto) to obey their "owners;" that wives have no moral reason to obey their husbands; that husbands have no moral reason to beat their wives or children; and that citizens have no moral reason to abide by Jim Crow laws. Conventionalism therefore does not provide any counter-intuitive revelations of this sort about what we ought to do and why we ought to do it. It can, however, explain why many theories that aim to "debunk" common-sense are misguided. We can see this when we consider how conventionalism applies to particular cases. The next section considers two canonical

examples of conventionally-mediated moral duties, political obligation and parental duties to children.

4.1 Conventionalism Applied: Political Obligation

The history of political philosophy tells us that the specific moral principle or principles that explain why a citizen of a particular country ought to obey the laws of that country are not easily found (if at all). One reason for the difficulty is that such principled defenses of political obligation are notoriously vulnerable to counterexamples. This has prompted some to give up the search altogether, adopting positions of philosophical anarchism ranging from reluctant to enthusiastic. A conventionalist account does not begin by defending one or more grounding principles for political obligation (or any other conventional norm) in particular. Assuming there is a conventional norm of political obligation, and that this norm is part of a total system of social institutions that is morally necessary, conventionalism instead begins by asking whether this conventional norm violates, all-things-considered, overriding moral considerations in the typical case. If it does not, then citizens have a pro tanto obligation to conform that can nevertheless be overridden (though not nullified) in particular cases.

Let's take a closer look at one famous thread in the debate over political obligation in order to see the difference that conventionalism makes. According to H.L.A. Hart (and at one point John Rawls), political obligation is justified pursuant to the grounding principle of fairness. This principle states that "when a number of persons conduct any joint enterprise according to rules and thus restrict their liberty, those who have submitted to these restrictions when required have a right to a similar submission from those who have *benefitted* by their submission."[13]

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[13] See Hart 1955. Rawls 1964 adopted this account of political obligation until he abandoned it (1971: 336-337) in favor of "the natural duty of justice," which is not vulnerable to counterexamples like *Public Address System.*

Political obligation is then justified this way: modern states like ours constitute cooperative endeavors whereby public goods are supplied by the citizenry under a system of laws. Therefore, according to the grounding principle of fairness, the citizenry have an obligation to submit to this system. But detractors have argued that the general principle is false. Consider this well-known example from Robert Nozick's *Anarchy, State, and Utopia*:

> *Public Address System:* Your 364 neighbors have decided (without your input) to provide entertainment to the community through a public address system. They decide that each neighbor will run the public address system for one day of the year. After 138 days of everyone else taking their turn, it is your turn.[14]

In *Public Address System* the principle of fairness applies but there is obviously no actual pro tanto moral duty to comply with the neighborhood scheme. That is, your neighbors collectively supplied a good from which you benefitted, but you clearly don't have any obligation to take your turn because you may have actually preferred to forego the benefits rather than get both the benefits and burdens of cooperation. The problem with political obligation is that, because the benefits provided are "public goods" (ie "non-excludable"), then a person can't help but benefit from them. This suggests that a person is morally permitted to benefit from a cooperative scheme without actually having a moral duty to contribute to the scheme. Thus, examples like *Public Address System* seem to falsify the principle of fairness, impugning political obligation.

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[14] Nozick 1974: 90-96. The debate is ongoing, with the pro and con sides having been taken up by, among others, Klosko 1992; 2004 and Simmons 1979; 1996; 2001.

Conventionalism gives a methodological explanation for what has gone wrong in this debate and others like it, quite apart from the substantive merits of fairness as a moral consideration. First, most conventional norms are parts of whole systems of interrelated social institutions. If the literature is any guide, then there may be many different overlapping reasons why this system is morally necessary. Furthermore, a system of social institutions will not only have overlapping moral justifications, but will also consist of clusters of norms whose effects on participants cannot be determined in isolation from one another or from a particular social context. This is because, in a system of interrelated social institutions, the overall effect of a particular conventional norm on actual participants will most likely depend on many other conventional norms, along with any combination of factors specific to a particular society at a particular time. The methodological upshot is this: putative grounding principles (like fairness, fidelity, gratitude, etc) for particular conventional moral duties are both unnecessary and misleading. They are unnecessary if Moral Necessity and Presumptive Legitimacy are true, because these explain why conventional norms of various kinds can be moral duties even if we assume that moral liberty is justificationally privileged. They are misleading because grounding principles invite testing by way of hypothetical scenarios like *Public Address System.*

According to these hypothetical scenarios tests, if the grounding principle gets the wrong result when applied to a hypothetical scenario that meets the principle's application criteria, then we are prompted to amend or discard the principle. But if conventionalism is correct, then this kind of test is inappropriate for conventional moral duties. A grounding principle will have applicability and success conditions that are more general than the conventional norm that it seeks to explain (that is why the grounding principle would count as an *explanation* of the conventional norm). Because the grounding principle is more general than the conventional

norm, hypothetical counterexamples can be built from the cases falling within the scope of the grounding principle but outside the scope of the conventional norm to be explained, as we saw in *Public Address System*. But if conventionalism is correct, such cases are irrelevant. Conventional moral duties are not explained by grounding principles, but by the moral necessity of the social institutions that generate them. The moral necessity of social institutions lends each conventional norm presumptive legitimacy, provided that it is morally efficient. And moral efficiency is determined by the *overall effect* of the norm's observance on those who participate in, or are otherwise affected by, the *actual interrelated web of social institutions of which the norm is a part*. There is no room in the justificatory story for cases outside the scope of the particular conventional norm being explained.

This will mean that, like public policies, conclusions drawn about one conventional norm cannot be properly generalized to others. So we will not be able to determine moral efficiency by considering hypothetical examples about different conventional norms. While this methodological restriction may seem modest on the surface, it does a lot of theoretical work. In this case, it removes the some of the historically influential arguments for philosophical anarchism. While requiring non-voluntary contribution to a scheme like *Public Address System* may very well violate, all-things-considered, overriding moral considerations in the typical case, this does not mean that political obligations do the same. In order to find that out, we must look at the effects of the actual conventional norm in question, which will depend on the actual social world in which this norm is embedded. Hypothetical examples like *Public Address System* cannot give us this information.

4.2 Conventionalism Applied: Parental Duties

Of all of our duties to kith and kin, parental duties to children are among the most canonical and universal. One of these parental duties is to give (reasonable) preference to one's child in the allocation of resources, materially and otherwise.[15] According to conventionalism, we can determine if a particular society's conventional norm to give such preference is also a moral duty by asking whether it violates, all-things-considered, overriding moral considerations in the typical case. As with political obligation, Moral Necessity and Presumptive Legitimacy, if true, ensure that we need not search for a grounding principle such as reparation or beneficence which, when applied to individuals who have offspring, renders the correct moral verdicts in every single case. There may not be any such general moral principle that is both informative and covers all and only the target cases. The principles of Moral Necessity and Presumptive Legitimacy relieve us of the burden of this search. The principle of Moral Efficiency ensures that parental duties are not typically overly burdensome or otherwise objectionable and the Regularity Constraint ensures that atypical cases are blocked from the justificatory story. So we ought not consider, for example, the fictional individual who has been sedated and wakes up pregnant with the child of her family's sworn enemy, or other such bizarre cases. As we saw, our verdict in such bizarre cases will not generalize.

Presumptive Legitimacy does something else, too. According to Presumptive Legitimacy, the moral value of a particular social role is not directly relevant to the moral efficiency of the norms attached to it. Conventionalism therefore departs from a standard strategy for justifying associative duties, which says that if a *social role* is morally necessary, then the norms attached

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[15] See, for example, Swift 2003; Brighouse 2009.

to that role have moral force.[16] According to this standard strategy, since parenthood is morally necessary, parental duties are therefore justified. If the standard strategy seems like a good one, it is probably because conventional norms typically devolve to individuals by being attached to a role that the individual occupies. This fact makes the occupation of a role deliberatively salient for the occupier, and properly so. But the mere fact that conventional norms devolve to individuals via roles does not mean that the roles themselves determine their legitimacy. As we will see, the goodness or badness of social roles are not directly relevant to the moral efficiency of conventional norms, and this fact is reflected in conventionalism.

The moral valence of a social role cannot ground conventional moral duties for two reasons. First, there is often not a singular moral point or purpose of a social role. Once we allow that there is no singular moral point or purpose of a role, then it may not be clear what (if any) overall moral valence it has. When we look at social roles in actual societies, we see that most of them are "mixed bags" that are morally objectionable in some ways and valuable in others. Consider the spousal role. When we look at this role in many of the social worlds of which it is a part, it is unlikely to be morally unambiguous. The same is true for the roles of sibling and parent. This is not to say merely that it is sometimes difficult to determine whether an association is morally valuable, but rather that it may not have a *unified* point or purpose at all. And even if it did, there may be conventional moral duties attached to the role that fall outside the scope of that point or purpose.

The second reason is this: even where a particular social role has a clear overall *negative* moral valence, conventional moral duties may still attach to it. Consider the role of guard at an internment camp providing the slave-labor of innocent prisoners. Let us assume that the best

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[16] See, for example, Hardimon 1994 and Scheffler 2001.

normative moral theory says that the overall point and purpose of this role is morally obnoxious; it is an overall evil role in the service of an overall evil institution. Nevertheless, morally efficient conventional norms may attach to this social role, such as the duty to alert a medic when one of the prisoners falls ill. This duty would be conventional even if there is a *general* duty of beneficence because a social institution is at least part of the means by which the duty devolves to the guard and it also plays a justificatory role in specifying what that duty is. The fact that the guard has a duty to alert a medic when an inmate is sick is a very specific way of discharging a very general duty to attend to the needs of others. Had he another occupation (such as cook) in the same camp, he may have been required to discharge his duty of beneficence in another way. (Recall that the ability of social institutions to "divide the moral labor" in this way is one plausible reason for their moral necessity.) Therefore, the norm to alert a medic is both conventional and (is plausibly) morally efficient, despite the overwhelmingly and irredeemably evil nature of the role to which the norm is attached.

So the moral justification of a conventional norm does not flow either from a particular grounding principle or from the moral justification of the role it is attached to. In the case of parental duties, we consider each parental norm on a case-by-case basis to determine whether it violates, all-things-considered, overriding moral considerations in the typical case. This will be a holistic judgment that is highly sensitive to specific social and material contexts. For example, does a conventional norm to give preference to offspring give enough weight to other's morally serious needs? The answer to this depends on the extent of the preference and the correct account of what beneficence requires according to the best normative moral theory. If the norm requires giving preference in the allocation of life-saving resources, then plausibly it will not violate our duty of beneficence. This will be true as long as our duty of beneficence allows a certain amount

of partiality to begin with. If the norm requires giving "preference" to one's offspring in the binding of her feet, then this will plausibly be inconsistent with both beneficence and justice. Here's another consideration: does the norm unfairly burden the parent? Plausibly it does not, since the typical parent is also the typical beneficiary of this duty (the typical parent was once the typical child). Yet another consideration: does it contribute to the exclusion of classes of people from the full benefits of social cooperation? This will depend on the contours of the norm in question. Where the norm requires favoring offspring according to birth order or gender, it may for that reason violate, all-things-considered, overriding moral considerations in the typical case.

Looking at associative duties this way allows us to respect social practices that may differ from our own without conceding any ground to moral relativism. As conventionalism makes clear, the very same moral theory can easily render different moral verdicts on similar kinds of social conventions. Furthermore, conventionalism gives a systematic way to reform social practices that are morally valuable but also deeply imperfect (as surely many of them are). Conventionalism does this because it directs us to evaluate a role's attendant duties one by one, without having to advert to the overall point or purpose of a role. So we create no crisis of theory by admitting, as we should, that some of the social practices here or elsewhere are morally objectionable. Conventionalism allows us to excise these parts with a philosophical scalpel. Such small changes may, over time, accrue to wholesale shifts in the moral character of social roles. That is one way that moral progress is made.

Conclusion

The breadth and scope of our associative duties has posed a problem for theoretical accounts of them. On the one hand, they seem to lack any unifying substantive justification. On

the other hand, they form the core of common-sense morality and everyday moral life.

Conventionalism explains how the fact that we are socially embedded affects the structure of a

moral theory. It argues that conventional norms are presumptively morally legitimate given that

human society is morally necessary overall. Given that human sociality is morally necessary,

each conventional norm is legitimate unless the effect of general observance is found to be

morally offensive, all-things-considered, in the typical case. It blocks historically influential

objections to the legitimacy of particular associative duties. And it does not require us to revise

our considered common-sense judgments about what duties we legitimately have or why we

have them.

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