

THE FAIR SHARE THEORY OF CONVENTIONAL NORMATIVITY

Adam Lovett

IN LONDON, people queue up at bus stops. Buses are frequent, so usually queuing is not necessary. But when everyone leaves work, sometimes there are too many people for all to get on the first bus. So Londoners form orderly queues, and the first to arrive at the bus stop is the first to board the bus. In this context, you act wrongly, morally speaking, if you jump the queue. In contrast, in Rome, people do not form orderly queues to get on public transport. When there are too many potential passengers for a bus in Rome, those who end up getting on are those quick enough to snag themselves a place. Do Romans act wrongly by not queuing? I doubt it. They are not obligated to queue because their social norms are different. There is no norm mandating queuing for buses in Rome.

Here is a different case. In New York City, diners generally tip 20 percent of the pretax bill when they eat out. They do this at cheap places and at fancy places, and they do it regardless of whether the server appears better-off than themselves. If you ever tip 10 or 15 percent on a meal, you have done something wrong, sometimes seriously so. In Tokyo, in contrast, diners do not tip. They may verbally thank the servers for a good meal, but tipping is neither required nor desired. You do nothing wrong when you do not tip in Tokyo restaurants. Again, the conventions in New York and Tokyo are simply different: no norm mandates tipping in Tokyo, and that is why one need not tip in Tokyo restaurants.

Consider one final case. Imagine you are an unmarried person in your thirties. If you are a Chinese person in China, your older relatives will likely give you a lot of advice about your situation. Your aunts and uncles will give you detailed input about your appearance, career, and comportment, all with the aim of getting you a spouse. Your parents will strongly encourage you, even pressure you, into settling down. In England, none of this usually happens. Your older relatives stay out of your business. Are the Chinese or English relatives acting wrongly in their respective situations? I am skeptical. Rather, familial norms in the two countries just differ. England has much stricter social rules protecting adult children from familial pressure on relationship issues. This is why the sort of advice elder relatives can give younger scions of their family is different.

These cases suggest that conventional, or social, norms have moral force. We are morally obligated to do some things that social norms dictate and would not be obligated to do those things in the absence of a social norm. Roughly, social norms are the standards that a group of people generally accepts for their behavior. Consider the rule forbidding you from eating with your elbows on the table or the rule mandating that you greet colleagues with a handshake: both are social norms in much of the Anglosphere. Or consider the norm that adult children can live with their parents until marriage. This is a norm in much of southern Europe. Such social norms sometimes correspond to legal norms. Traffic laws, for example, both impose legal obligations and (sometimes) match social norms. But social norms are often less formalized than legal norms. And such social norms sometimes directly correspond to independent moral norms. The norm forbidding murder is both a social norm and, independently, a moral norm. But social norms often do not correspond to independent moral norms. There is no general moral rule that you must stop your car at red lights, although in much of the world, there is a social norm demanding that you do. My aim in this paper is to explain why such social norms nonetheless often have moral force.

One might doubt the explanandum. One might doubt that social norms have any distinctive moral force. Perhaps we should comply with social norms only when we have independent moral reason to do as they direct. On this view, we have a duty to tip in New York city restaurants, for example, because we have a duty to prevent servers from falling into poverty. In this article, I largely just assume this skeptical view is wrong. For a start, that is because it is difficult to convincingly apply to specific cases. Consider tipping. At high-end restaurants in New York, the waiters earn much more than I do; still, it would be wrong for me not to tip. We cannot explain this via a duty to stop these particular servers from falling into poverty. More generally, the skeptical position does not explain the cultural variability of people's moral obligations. Londoners have a duty to queue at bus stops, but Romans do not; English parents have a duty to refrain from detailed commentary on the romantic status of their adult children, but Chinese parents do not. If these duties just flow from independent moral reasons, how do we explain why these reasons differ in different places? No explanation of this is obvious. Moral reality is not made of different stuff in Nanjing and Newcastle. These two points give us reason to look for a realist account of the moral significance of social norms.¹

The rest of the article embarks on this project. It is in part critical and in part constructive. Section 1 is critical. Laura Valentini, in a recent paper and book,

1 For a much more extended criticism of the skeptical view, see Valentini, *Morality and Socially Constructed Norms*, 53–60.

argues that we should obey social norms because doing so respects the agency of those who support the norms.² I raise two objections to this view that help establish some general features of social norms. In section 2, I outline an alternative view. On this alternative view, we should comply with social norms when and because we have certain collective obligations that those norms help us to discharge. Complying with norms is doing our fair share toward discharging these obligations. In section 3, I address the most concerning challenges to this theory. Overall, this provides good support for a fair share theory of the moral force of social, or conventional, normativity.

1. THE AGENCY RESPECT THEORY

The last twenty years have seen an efflorescence of work on the moral force of social norms. In this section, I focus critical attention on the view recently advanced by Laura Valentini.³ Partly, this is because her view is very interesting; partly, it is because evaluating it puts us in a good position to outline my positive view. Valentini thinks that following social norms is a way to respect people's agency. The first idea behind this view is that we have a "*pro tanto* moral obligation to respect other people's authentic and morally permissible commitments provided doing so is not too costly to us."⁴ Commitments are robust intentions. You might intend to be a good parent. This intention is robust if it is not merely transitory or fleeting: you retain the intention to be a good parent in a wide range of situations. These are the kinds of intention around which we orient our goals. Valentini thinks that to respect someone's agency, we have to respect these robust intentions.⁵ So we have a *pro tanto* moral obligation to help or at least not hinder the satisfaction of people's robust intentions. If you

2 See Valentini, "Respect for Persons and the Moral Force of Socially Constructed Norms" and *Morality and Socially Constructed Norms*. There is no substantial difference in position between the former paper and the latter book; the book just fleshes out the paper, so I will treat them as equally valid sources for Valentini's views.

3 For other views, see Gilbert, *A Theory of Political Obligation*; Marmor, *Social Conventions*; Miller, *The Moral Foundations of Social Institutions*; Melenovsky, "Promises, Practices, and Reciprocity" and "The Reasons to Follow Conventional Practices"; Owens, *Bound by Convention*; and Monti, "Are There Any Conventional Obligations?" Valentini addresses both Gilbert and Owens in *Morality and Socially Constructed Norms* (53–60). For criticism of Marmor, see Monti, "Are There Any Conventional Obligations?" 14–15. For criticism of Monti, see, in effect, the end of section 3.4 below. For discussion of both Miller and Melenovsky, see the end of section 2 below.

4 Valentini, *Morality and Socially Constructed Norms*, 10.

5 Valentini, "Respect for Persons and the Moral Force of Socially Constructed Norms," 390–92; and *Morality and Socially Constructed Norms*, 89–94.

are committed to being a good father, I have a *pro tanto* moral obligation to help you be a good father, provided certain conditions are met.

Valentini further adopts what she calls the *agential-investment* account of social norms.⁶ This account says that a social norm exists when a rule is widely and publicly accepted in a given context. To accept a rule, Valentini thinks, involves two things: first, “a cognitive state, namely a *belief*” that people ought to comply with the norm; and second, “an appropriate action-guiding attitude, namely a *commitment*”—the robust intention that people comply with it.⁷ The key part of this account is the second clause. This says that a social norm is in place only when people generally intend themselves and others to act a certain way. Consider, for example, the norm to queue or line up for buses. This is, according to Valentini, a norm only because many intend that all comply with the requirement to queue at the bus stop—they intend that this requirement functions as a “general standard of behavior.”⁸ Were people not to intend themselves and others to conform to this norm, then there simply would be no norm. The agential investment account links social norms closely to agency—it implies that social norms express the deep commitments of supporters of those norms.

These premises can straightforwardly explain the moral force of social norms. Norms express people’s commitments, and we have *pro tanto* obligations to respect people’s commitments. This just is to respect their agency. So we have *pro tanto* obligations to respect social norms. And that is to say we have a *pro tanto* obligation to follow social norms. The idea is, as Valentini puts it, that “the moral normativity of socially constructed norms stems from our duty to give people agency respect.”⁹ Now of course Valentini does not think we should always do as social norms dictate. For a start, our obligations here are merely *pro tanto*: they can be outweighed by other, weightier obligations. Additionally, it is only morally permissible, authentic commitments that we have *pro tanto* obligations to respect. I might have a commitment to upper-caste and lower-caste people not mixing, but this is a morally impermissible commitment, and so nobody has any *pro tanto* obligation to help me realize it.¹⁰ I might have a commitment only because I was manipulated into acquiring it. This is not, Valentini thinks, an authentic commitment, and so it does not

6 Valentini, “Respect for Persons and the Moral Force of Socially Constructed Norms,” 392–94; and *Morality and Socially Constructed Norms*, 22–30.

7 Valentini, *Morality and Socially Constructed Norms*, 23.

8 Valentini, *Morality and Socially Constructed Norms*, 26.

9 Valentini, *Morality and Socially Constructed Norms*, 82.

10 Valentini, *Morality and Socially Constructed Norms*, 91.

generate obligations.¹¹ Finally, if complying with someone else's commitment is too costly to our own agency—if, for example, it clashes too much with our existing commitments—Valentini thinks that we have no obligation to comply with it.¹² These conditions aside, though, the general idea is that we should obey social norms in order to respect the agency of supporters of those norms. She calls this the *agency-respect theory* of the moral force of social norms.

This is an attractive theory, but I do not think it is true. To begin with, I do not think we generally have a *pro tanto* obligation to comply with other people's commitments, even subject to Valentini's conditions. To see this, consider the following case. Suppose I am a Parisian. I form the authentic commitment that people in London stop queuing for the bus, that they decide who gets on the bus by playing rock-paper-scissors instead. This is a morally permissible commitment, or so it would seem. If it is permissible to commit to one way, queuing to allocate spots on public transport, it seems permissible to appeal to another—random chance—to allocate such spots. Yet my having this commitment gives Londoners no obligation, not even a *pro tanto* obligation, to play rock-paper-scissors to decide who gets on the bus. And nor do things change if I get a lot of my fellow Parisians to share my commitments. Even if the whole of France is committed to Londoners allocating seats on overburdened buses via a game of chance, Londoners have no *pro tanto* obligation to do so. And so we do not, generally speaking, have *pro tanto* obligations to comply with other people's morally permissible commitments.

Many cases show this. To take another example, imagine that I have strong commitments about what you wear when we meet. I intend you to wear red. It seems that this gives you no obligation whatsoever to wear red. My commitment in this case is morally irrelevant. Is that because my commitment is impermissible? That is doubtful. It would be impermissible to intend to force you to wear red, but I just intend you to wear red—I do not intend to force you to wear it. And it might be impermissible if my commitment to you wearing red was based on my belief that you had lower moral status than me or that I generally should be able to decide what you wear. But I might have no such belief. I might just think you look good in red. So I do not violate any rights against coercion or to equality. One might nonetheless think that we have a general right against others intending us to wear certain things. But this is false. We often permissibly intend others to dress in particular ways. If I invite you to my wedding, I might intend that you wear formal clothes. My having such an intention does not violate your rights. So the agency-respect view implies that

11 Valentini, *Morality and Socially Constructed Norms*, 90–91.

12 Valentini, *Morality and Socially Constructed Norms*, 91.

merely by intending that you wear red, I can give you a *pro tanto* obligation to wear red. This is false. So the agency-respect theory is false.

One might try to avoid this implication by claiming that complying with these commitments is too costly to generate a *pro tanto* obligation. But it is easy to formulate these counterexamples so that complying with the relevant commitments imposes very little burden on one's agency. Some Londoners do not care whether they queue for public transport. It would not be costly to these Londoners to change how they allocate seats on buses. Still, such Londoners have no obligation whatsoever to accept Parisians' commitments about such allocation. And you might not care how you dress. Indeed, you might be antecedently committed to wearing maroon. If so, it is not costly to you to wear red. Wearing red coheres rather than clashes with your existing commitments. Still, that I am committed to your wearing red gives you no obligation whatsoever to wear red. So such cases show that the agency-respect theory overstates the import of intentions. We simply do not generally have *pro tanto* obligations to comply with other people's commitments.

I want to consider another reply to this objection. One might suggest that in these cases, one does not entirely lack a *pro tanto* obligation to comply with other people's commitments. One merely has a very lightweight such obligation—an obligation that is very easily outweighed by other duties. On this view, our duty to comply with other people's commitments per se is lightweight. I do not think this accurately characterizes the import of other people's commitments about, for example, what we wear: these often generate no obligation, not just a lightweight one. But that aside, the problem with this reply is that, together with the agency-respect theory, it implies that we have only very lightweight obligations to comply with social norms. Yet often we have weighty obligations to comply with social norms. Think about the duty English older relatives have not to pressure their nephews to marry. This is no trifling thing. In England, if your aunt obsessively comments about your romantic life, she has done something seriously wrong. She owes you a heartfelt apology and should rectify her behavior. So this reply undercuts the capacity of the agency-respect theory to explain the phenomena.

What, then, is going on in the cases I have raised? I think the truth of the matter is that what commitments we have obligations to comply with is often determined by social norms themselves. You do not have any general obligation to comply with my commitments regarding your clothing choice because our norms determine that what you wear is part of your personal sphere. I do not get any say on it, except in special cases, as when I invite you to my wedding. And Parisians do not have any say on how Londoners allocate spots on buses because by the lights of our democratic norms, this decision is a matter for

Londoners alone. In contrast, I should not interfere with your commitment to your religion, for example, because our norms pick out that particular commitment as something to be respected. Which commitments matter and which do not is post- rather pre-institutional. It flows from the moral force of appropriate norms. If that is true, it augurs poorly for the agency-respect theory. More generally, it means that an appropriate theory of the moral force of social norms should help to explain how social norms shape the import of our commitments. In the next section, I advance such a theory.

Let us turn to a second objection to the agency-respect theory. This helps us get clear on what it is to accept a norm. The theory relies on the idea that when we accept a norm, we have a kind of agential investment—a commitment—to that norm. It says that to respect people's rational agency, we must respect these commitments. The thought, in Valentini's words, is that these commitments "are active: they are something that we author."¹³ To respect people's active authorship, one might naturally think, is at least a very good way of respecting their agency. The worry is that this is a deeply misleading picture of how most of us come to accept the norms we do. There is nothing very active about the way we usually come to accept norms mandating queuing or tipping or determining our familial rights and obligations. We do not reflect on these norms rationally and decide to endorse them. Rather, we are hardwired to seek out and internalize the norms that are extant in our social contexts. Norm following is an innate feature of our psychology, and our incorporation of norms is passive in a way akin to how we learn language or acquire aesthetic standards.¹⁴ When we see norm acquisition in this way, it is less clear that respecting them could be an especially important way to respect people's rational agency.

Let me say a little more about this picture of norm acquisition. The evidence for it starts from the fact that we begin to acquire norms when we are very young. Hannes Rakoczy, Felix Warneken, and Michael Tomasello report a nice experiment demonstrating this.¹⁵ They get a bunch of three-year-olds to come into their lab. In the lab is an adult playing with some objects: the adult puts some wooden pieces together to form a bat and uses it to push a block across a table into a gutter. The adult leaves without ever interacting with the children. The experimenter then comes into the lab with his hand puppet, Max. He has Max play with the objects differently to how the adult did. Specifically, Max lifts up the table so that the block slides into the gutter. The children respond by

13 Valentini, "Respect for Persons and the Moral Force of Socially Constructed Norms," 390.

14 For important sources of this picture, see Chudek and Henrich, "Culture-Gene Coevolution, Norm-Psychology and the Emergence of Human Prosociality"; and Henrich, *The Secret of Our Success*.

15 Rakoczy, Warneken, and Tomasello, "The Sources of Normativity."

telling Max off; he is doing it wrong. This suggests we evince norm-enforcing behavior as young children, long before we acquire the kind of practical agential faculties that warrant respect. So our norm-supporting behavior need not be explained by anything to do with these faculties. Even if norms do involve commitments, these are not the kind of reflective commitments that have deep moral significance.

We can underline this point by looking a bit more at the variation in norms across societies. People almost always endorse the norms they are raised with, at least in large part. British people think queuing is the appropriate way to allocate scarce goods. Americans think tipping 20 percent is obligatory. Chinese people see nothing wrong with interfering in the relationships of their younger relatives. This underlines the point that most people's absorption of norms is not a product of critical reflection. Critical reflection usually produces a lot of disagreement about normative matters. The history of ethics shows as much: when people think in a sustained and serious manner about what they ought to do, they come to very different conclusions. There is not much convergence in ethics; philosophers have very different views about moral issues. Within each society, though, there is a lot of convergence on which norms to endorse. People simply adopt the norms extant in their society. All that suggests that a mechanism besides critical reflection is leading to their adoption of norms.

What is this mechanism? A view recently championed by Joseph Henrich is that we are simply innately disposed to imitate other people, especially prestigious people.¹⁶ We do this primarily by working out what norms exist in our environment and internalizing them. Here, to internalize a norm just is to be committed to both complying with it and sanctioning others for noncompliance. There is an evolutionary explanation for why we do this. Knowledge is extremely important in human societies: it is vitally important to know how to make fire, cook casava, or find edible plants. But the relevant kind of knowledge is hard to verbally communicate. It is complicated and often tacit. So the best way to utilize such knowledge is simply by imitating other people, especially successful (and thereby prestigious) people. And we do this by internalizing norms. The key point is that the acquisition of norms here is arational rather than rational. There is a sensible causal explanation for why we are disposed to internalize norms, but we do not think through these issues when we internalize norms. (Children surely do not.) We are simply strongly disposed to internalize norms.

16 Henrich, *The Secret of Our Success*.

Why does all this matter? Because commitments should be taken most seriously, I think, when they are reflective. They should be taken most seriously when those who have them have thought carefully about them and, upon detailed consideration, decided to endorse them. Perhaps unreflective, unconsidered commitments also have some moral force. But they reflect people's actual exercise of rational agency to a far lesser degree than do other commitments and so have far less force. Yet our commitment to norms, I believe, is usually unreflective and unconsidered. British people do not reflect on whether queuing is the best way to allocate seats on a bus; they are arationally committed to queuing. If that is so, the commitments identified by the agency-respect theory are ones we should not take too seriously. They are not ones that reflect the actual exercise of rational agency, and so respecting agency does not require much of us with regard to such commitments. I doubt such morally weak commitments are sufficient to explain the force of social norms. Social norms are often morally weighty, but any commitments underlying them are morally lightweight.

Let us look at just one worry about this position. Does it make too many of our commitments morally lightweight? Take, for example, religious commitments. One might doubt that all Catholics, for instance, have carefully reflected on their commitments. But religious commitments are nonetheless morally heavyweight. The reply to this point is that the moral weight of a commitment need not hinge on the nature of that particular commitment. Rather, on the theory to be outlined in the next section, it hinges on the moral weight of commitments of that kind. Thus, some people's religious commitments may be unconsidered and unreflective—in themselves, these are not worthy of much respect. But many people have deeply reflective, considered religious commitments. So we should institute and maintain social norms that mandate we respect all religious commitments. The unreflective commitments get protected as a side effect of such norms. I spell out this position in more detail in the next section. The upshot of it, though, is that the position that I have just outlined does not make too many of our commitments into morally lightweight ones.

That concludes my discussion of Valentini's agency-respect theory. I think this theory is initially attractive but ultimately untenable. In showing that, I have made several crucial suggestions about social norms. Most importantly, I have claimed that norm following is a deep-seated, unreflective part of human psychology. And I have suggested the norms alone often generate weighty moral reasons, that they shape what commitments we have a duty to respect, and that we have a duty to respect some—but only some—unreflective commitments. In the next section, I advance a positive proposal that does justice to these claims.

2. THE FAIR SHARE THEORY

My positive proposal descends from the Rawlsian idea that we can explain many obligations in terms of a duty to do our fair share.¹⁷ Rawls understands certain obligations such as promissory obligations in terms of a duty to contribute our fair share to the maintenance of cooperative schemes from which we benefit. This is a kind of duty of reciprocity. The idea in the promissory case is that we benefit from the practice of promising, and keeping our promises is making a fair return for that benefit. These specific ideas do not easily generalize to social norms. The chief problem is that often we do not benefit from social norms that bind us.¹⁸ Consider the tipping norm. It is primarily American wait-staff who benefit from the norm that 20 percent be tipped on every meal. I have never been a waiter. I do not benefit from this norm, or at least do not benefit much.¹⁹ Still, I am bound by the norm. I do something seriously wrong if I leave a New York restaurant without tipping. So my positive proposal distantly descends from Rawls's idea, but the details are very different.

I propose that we start with the claim that we have many collective obligations.²⁰ Collective obligations are duties that we have not simply as individuals but as a plurality. Imagine, for example, that a stranger is stuck below a log that needs five people to lift it. You do not have an individual obligation to lift it (you cannot), but if there are exactly five people in the area, you together have a collective obligation to lift the log. Your contribution makes a difference to freeing the stranger, but that is not so in all cases of collective obligations. Imagine, for instance, that there are one thousand wounded men lying in the desert suffering from intense thirst. You are at a nearby banquet with an equal number of people. Each banqueter has a pint of water. You could pour your pint into a water cart, which will be driven to the desert where the water will be equally distributed among the wounded. But you pouring your pint will have no perceptible effect on slaking anyone's thirst: one-thousandth of a pint

17 For this view, see Rawls, *A Theory of Justice*, sec. 52. Rawls himself was influenced by Hart, "Are There Any Natural Rights?" 185.

18 There are also other problems brought out by discussion of this theory applied to political obligations. For these problems, see Simmons, *Moral Principles and Political Obligations*, 101–42; and Huemer, *The Problem of Political Authority*, 86–93. For a more extended critique, see Monti, "Are There Any Conventional Obligations?" 12–14.

19 Do I benefit because the norm yields good service? Well, we do not need tipping to get good service—service in Japan is excellent.

20 The positive proposal I advance here has some similarity to that Wellman advances in "Samaritanism and the Duty to Obey the Law." The differences are that Wellman is interested in duties to obey the law rather than social norms more generally, and relatedly, he does not mention the empirical work on which I rely.

of water is imperceptible. Still, you together with the other banqueters are *collectively* obligated to fill the cart with water. If you do not fill up the cart, you collectively have done wrong.²¹

These are stylized cases. But there are many familiar examples of collective obligations. Consider, for example, our duty to avert very serious global warming. This is not a duty any individual has. None of us can individually avert serious global warming. Rather, it is a duty we have collectively as a society, or as the whole of humanity. Equally, we have collective obligations to ensure goods are fairly distributed in our society, that people are paid sufficiently for their work, that everyone has a decent chance at authoring their own life, that children are well cared for, and much else besides. We are not just individually obliged to ensure these things; we are collectively obliged to do them. Such collective obligations are not simply aggregations of the individual duties of the members of this plurality. It is not that we are each individually obligated to avert global warming. Instead, collective obligations are primarily duties that apply to collectives. We should think of them as obligations that fundamentally attach to pluralities of people.

When exactly do we have collective obligations? Generally, whenever there is a very morally serious goal that we must coordinate to achieve, we seem to have a collective obligation to achieve the goal. I have two remarks about this. First, coordination matters. If each of us could easily lift the log on our own, freeing the stranger trapped under it, then I doubt we would have a collective obligation to lift the log. Each of us would simply be individually obligated to lift it. For a goal to generate collective obligations, coordination must be necessary for achieving it. It must be necessary that people respond to and rely on the actions of others. Second, the goals that generate collective obligations are varied. These are not just the goals of ensuring that certain goods or burdens are distributed fairly. They include the goal of ensuring certain goods (familial relationships, say) exist at all, the goal of saving people's lives, the goal of protecting rights. I do not have a general account of what makes a goal morally serious enough to generate a collective obligations. This is a hard question that I will leave open. But for now, the important point is simply that collective obligations are common and can be in the service of multifarious goals.

Let us move on to a key further observation. It is very hard to discharge our collective obligations. Consider the duty to ensure that goods are fairly distributed in our society. There are two things that makes this very difficult to discharge. First, there is a motivational problem. We cannot reach into everyone's heads and ensure they give appropriate weight to fair distribution on each

21 This case is discussed in more detail by Parfit, *Reasons and Persons*, 75–86.

occasion they deliberate. We are not capable of influencing people's practical deliberations in this fine-grained way. The problem is exacerbated by the fact that people have strong countervailing motivations. We are selfish: we are disposed to give ourselves more than our fair share. And we are partial: we give our friends and family members more than their fair share too. This means merely trying to persuade people to give appropriate weight to fair distribution is of limited efficacy. Second, there is an epistemic problem. To satisfy our collective obligations, people have to know what others are doing. Whether giving you some good on some occasion is fair depends on what you get on other occasions. But it is very difficult for me to know what you get on other occasions, and even if I did know, it would be very difficult for me to work out whether it was fair relative to other people's allocation. It is difficult to predict the behavior of other people.

These problems present enormous barriers to discharging our collective obligations. Fortunately, there is a solution to both problems. In our discussion of the agency-respect theory, I staked out a particular account of the psychology of social norms. On this account, we human beings are norm-following creatures. We are innately and strongly disposed to evaluate what norms hold in our social group and then to adopt those norms. We are disposed to take those norms as a standard for our own and others' behavior. This, as discussed above, is an arational process, and our disposition to follow norms often overwhelms our other motivations; it often overwhelms our selfishness, our partiality for friends and family members, our apathy. British people, for example, feel terrible about jumping a queue, even when they are about to miss their flight; people refrain from lying or stealing or marrying distant cousins, because their social norms forbid it. Norms have a pervasive influence on our behaviors.

That means, I suggest, that often the only way to discharge our collective obligations is for us to collectively support—to set up and maintain—norms that, if complied with, would discharge the obligations. This solves the motivational problem because norm following is such a powerful human drive. Setting up norms is an indirect way of reaching inside people's heads in order to ensure they deliberate appropriately. And as a result, it solves the epistemic problem. We can predict others will comply with the norm because human beings are norm-following animals. To see this solution at work, reconsider the duty to ensure goods are fairly distributed in our society. One way to ensure certain goods such as seats on public transport are fairly distributed is by queuing. It is fair to equalize the time everyone spends waiting for their bus, and a queuing system tends to do that. Those at the back of the queue will on average end up waiting about as long for their bus as those at the front have already waited. So the most reliable way for us, *qua* collective, to discharge our collective obligations is to support social norms that, when followed, will discharge them.

Thus, we have collective obligations to support social norms that, if complied with, help us to discharge our collective obligations. This inference relies on a means-end principle: if we are collectively obligated to bring about *X*, and bringing about *Y* is the most reliably means of bringing about *X*, we are collectively obligated to bring about *Y*. The kind of principle is plausible for individual obligations: if *Y* is the most reliable way of discharging your individual obligations, you are usually obligated to *Y*.²² The principle is equally plausible for collective obligations. Consider the stranger stuck under a log. The most reliable way to lift the log off the stranger might be for the five of you to make a plan about how to lift it. So you have a collective obligation to make such a plan. The collective obligation derives from the fact that plan making helps to discharge your collective obligations. Setting up or maintaining certain social norms is the most reliable and perhaps the necessary means to discharging certain of our collective obligations. So we have a collective obligation to set up such norms or to maintain them if they are already in place.

Why does that matter to our individual obligations? Here, we need a further moral claim—and this connects the present view with the Rawlsian idea. The claim is that when we have a collective obligation to do something, we are individually obliged to contribute our fair share toward that thing.²³ Think again about global warming: we are collectively obliged to avert very serious global warming, so we are individually obliged to contribute our fair share toward averting such warming. Concretely, we are obliged to reduce our consumption, to offset our emissions, or to install solar panels. More generally, I think we are obliged to make the kind of efficacious sacrifices such that, if everyone made these sacrifices, we would discharge the collective obligation.²⁴ It is a sacrifice to not fly transatlantically or to pay money to offset your household emissions. But these sacrifices contribute to averting serious global warming, and if everyone made such sacrifices, then we would succeed in averting serious global warming. And so making such sacrifices is a way of doing your fair share toward contributing to this goal.

22 In some cases, the most reliable means to fulfilling some obligation might be much more personally costly than some slightly less reliable means. These cases may prove exceptions to the principle. But such cases generally do not matter to our discussion of social norms.

23 One recent source for this claim is Dietz, "What We Together Ought to Do." Wellman ("Samaritanism and the Duty to Obey the Law") and Maskivker (*The Duty to Vote*) also endorse a claim of this sort.

24 For this kind of view, see Murphy, *Moral Demands in Nonideal Theory*. For a different approach, see Tosi, "Rethinking the Principle of Fair Play." Tosi's approach provides distinctive resources for addressing the problems of discretion discussed in section 3.4.

That completes the fair share theory of conventional obligations. The theory is rooted in the causal centrality of social norms to human behavior: we are norm-following creatures. Human beings are the animal that adopts and follows social norms. This centrality means that setting up and maintaining good social norms is the most reliable means for us to discharge our collective obligations. Thus, when we have such norms, we are collectively obligated to maintain them. So we have an individual obligation to do our fair share toward maintaining good social norms. We each should make the sacrifices such that if everyone made similar sacrifices, the norm would be maintained. In most cases, what those sacrifices are is fairly clear: we should internalize the norm. We take it as a standard for our own and other people's behavior. That means we will comply with it and sanction others for noncompliance. If everyone did this, the norm would endure. Norms, then, have moral force when and because internalizing them is doing our fair share toward discharging our collective obligations. We have many collective obligations that norms help us to fulfill, and internalizing those norms is our way of contributing to such obligations.

Let us see how this theory applies to our earlier cases. Start with queuing. Here, I think the relevant collective obligation is to fairly distribute public goods. In London, maintaining the queuing norm is the most effective means of discharging this obligation. So we have a collective obligation to maintain the queuing norm. We should each contribute our fair share to maintaining this norm. So we should each internalize and thereby comply with it. So Londoners have an individual obligation to queue up at buses in order to contribute to discharging their collective obligations. In Rome, in contrast, there is no such norm and so no such individual obligation. Perhaps Romans should set up a queuing norm, but in its absence, they have no duty to queue. Now turn to tipping. Here our collective obligation is to ensure that workers are paid sufficiently for their work. In the United States, the tipping norm ensures that waitstaff are paid sufficiently for their work. New Yorkers have a duty to do their fair share in maintaining this norm, and thus they should tip. In Japan there is no such norm, and so people are not obligated to tip.

Familial norms are a little more complicated. These implicate, I think, two of our collective obligations. On the one hand, we have a duty to help people author their own lives, to help them ensure that their important choices manifest their own values, intentions, and commitments. On the other hand, we have a duty to ensure people can have close and rewarding family relationships. This includes relationships in which they can give advice to family members freely. There are plausibly many equally good ways of balancing these goals. The English norms that constrain older relatives from giving certain kinds of advice to younger scions tends to more promote the first goal. Chinese norms

that permit such advice tend to more promote the second. Both are, I think, equally fitting ways to discharge our multiple, conflicting, collective obligations. If so, then one has a fair-share duty to comply with the norms in the society one finds oneself in. So neither Chinese nor English people do anything wrong in complying with their respective norms. Generally, the moral force of social norms comes from a duty to contribute our fair share to discharging a collective obligation.

At this juncture, the fair share theory should be clear. So let us tie up some loose ends. First, in the previous section, I promised that the fair share theory would explain why, although unreflective and unconsidered commitments lack intrinsic import, they should often still be respected. Let us fulfill the promise. We start with the idea that we have a collective obligation to respect people's authentic and reflective commitments. This is a corollary of our obligation to help people author their own lives. The key point is then that for many kinds of commitments, we do not effectively discharge this obligation by setting up a norm that lets individuals judge which commitments of this kind are authentic and reflective and which are not. Third parties do this badly; they do not have the information to tell whether a commitment is authentic and reflective, and their evaluation is predictably biased. We are much more likely to think a commitment is reflective if we share it. So when certain kinds of commitment are often authentic and reflective, such as religious commitments, we should support norms that mandate respect of all such commitments. So we should respect even unreflective and unconsidered such commitments. Doing so contributes to norms that effectively discharge our collective obligation. More specifically, we should respect religious commitments in general, even the unreflective ones, because many religious commitments are reflective.

This connects to a second point. Previously, I suggested that what commitments we have a duty to respect often depend on the structure of our social norms. I have a duty to respect Londoners' commitments about how to allocate public transport in London but not those of Parisians. You have a duty to respect my commitment that you wear a suit at my wedding but not my commitment that you wear red all the time. Generally, this is because our duties to respect commitments are filtered through social norms. We should respect those commitments that good norms—norms that help us to discharge our collective obligations—tell us to respect. The norm that gives you control over what people wear at your wedding (within reason) is such a norm. There is no norm that gives you control over what people wear all the time, and if there was, it would not be a good norm. It would not help us generally discharge our collective obligation to ensure others author their own lives. And so the fair share theory explains why our autonomy rights so often seem post- rather than

pre-institutional. I believe (controversially) that much of the structure of our autonomy rights is determined by our social norms.

Besides these loose ends, I have so far left some other questions about the fair share theory open. Let us explore some of these issues. To begin with, there is an important question of when a social norm is sufficiently good at helping us to discharge our collective obligations as to generate obligations. One could, in answering this, say that each collective obligation is defined by a goal: the goal of fair distribution, reciprocity, self-authorship, etc. Then one could say that a norm generates individual duties as long as it brings us above some threshold of achieving that goal. This latter idea, however, seems implausible. The problem lies in defining a threshold; any threshold here seems arbitrary. A better view then seems to be a simple counterfactual view: when evaluating a norm, we see whether the relevant goal would be better achieved were the norm not to exist. Here we evaluate what other norms would take its place were it not to exist (and the answer might be none). What matters here is the likely replacement for the norm were it to disappear. If, in this situation, the relevant goal would be less well achieved than it actually is, the norm's existence brings us closer to achieving the goal. And so we should do our fair share to uphold the norm.

A second important question concerns what the ideas behind the fair share theory imply when we do not have relevant norms in place. To take an extreme case, imagine we live in Hobbes's state of nature and have no shared norms at all. In this case, we have a collective obligation to set up shared norms. So we have an individual duty to do our fair share toward setting up norms. But what that requires is much more varied than when we already have norms in place. For a start, we need to evaluate what norms to try to set up. That involves evaluating both how good different norms are and how feasible they are to establish. We then need to work out the best way for us to contribute toward setting them up. This might be some mixture of activism and conformity to the norm before it is prevalent. Evidently, what to do in such cases is much more multifarious and context dependent than what to do when we already have a good norm in place. Fortunately, to explain the moral force of actually existing norms we need only to consider the simpler case.

Finally, it is worth comparing the fair share theory of conventional obligations to some related theories in the literature. I have already compared it to a Rawlsian theory—the crucial difference is that on the fair share theory, one need not benefit from a convention in order to have a duty to uphold with it. C. M. Melenovsky has advanced a view with some similarity to the Rawlsian picture.²⁵ Melenovsky attempts to ground the moral force of social norms in a

25 Melenovsky, "Promises, Practices, and Reciprocity."

certain kind of reciprocity. His view is that as a *sui generis* principle, if one follows the rules of a sufficiently just social practice, then one has a claim on others to follow those rules.²⁶ The practice has to be “sufficiently just” in order to generate such claim—this is why those who participate in, e.g., chattel slavery do not have a claim on others to participate. But any practice that exceeds this bar generates the claims. So, for example, those who follow London’s queuing norms have a claim on other people to follow those norms. Both the Rawlsian theory and Melenovsky’s are based on some sort of reciprocity. Melenovsky, though, focuses on a claim that contributors to a norm allegedly enjoy rather than on a duty that beneficiaries of the norm are constrained by.

How we understand Melenovsky’s view turns on how we understand what it means to be sufficiently just. One might think that a practice is sufficiently just if and only if—and because—it helps us to discharge some collective obligation. On this understanding, Melenovsky’s *sui generis* principle can be straightforwardly thought of as identifying a claim on others to do their fair share in discharging collective obligations. So this view collapses into the fair share theory I have advanced. But one might more distinctively think a practice is sufficiently just when it does not violate people’s rights—such as in the example of chattel slavery—or otherwise impose extreme demands on people. Unfortunately, this view has difficulty dealing with relatively pointless social practices. Think, for example, of the rule that one cannot take liquids onto flights in containers of more than one hundred milliliters. I doubt this does much to improve the safety of airline passengers. Yet this rule does not violate anyone’s rights or impose onerous demands on anyone. So the view under discussion implies that those who follow this rule have a claim on others to also follow the rule. But this seems to me implausible—completely pointless social rules lack moral force. So I doubt that either of these versions of Melenovsky’s view provides a plausible alternative to the fair share theory.²⁷

One feature of both the Rawlsian view and Melenovsky’s view is that collective obligations play no official role. So let us compare the fair share theory of conventional obligations to a view in which collective obligations play a prominent role. Seamus Miller advances a theory to explain, *inter alia*, why

26 Melenovsky, “Promises, Practices, and Reciprocity,” 112.

27 For a later view, see Melenovsky, “The Reasons to Follow Conventional Practices.” Here, Melenovsky adopts a pluralistic account of our reasons to follow social norms: he suggests there are many different kinds of reasons to follow social norms, of which the consideration in the text is a part. I do not disagree with this overall pluralistic approach. Still, I think it is useful to look for the reason that applies in the widest array of cases. This is in some sense the most fundamental reason to follow social norms, and this is the target of the fair share theory of conventional normativity.

the members of organizations have distinctive duties.²⁸ He thinks that organizations help us to produce goods that we are collectively obligated to produce. Organizations that discharge these collective obligations are made up of different roles (think of teacher in a school or police officer in a police force). And, Miller thinks, people who occupy these roles are required to comply with the norms constituting their roles.²⁹ Both Miller's view and the fair share theory invoke collective obligations, but their target explanandum is different. Miller's target is why organizational norms have moral force for their members. The target of the fair share theory is why social norms more generally have moral force. So the target of the latter is much broader than the former.

Still, perhaps we can modify Miller's theory to explain the broader explanandum. We could think of society itself as an organization that discharges certain collective obligations, of a "member of society" as a kind of role, and of norms like the queuing norm as constitutive of this role. This brings us to the more important point of contrast between the two views. Miller does not really say anything about *why* the individuals who occupy a role are obligated to obey its constitutive norms. He says it is not because they promise to comply with those duties or because their embodying the role creates reasonable expectations for others.³⁰ But he does not give a positive explanation for it: role responsibilities are an unexplained explanans.³¹ The fair share theory explains this explanans. Those who occupy the roles in good organizations have a duty to do their fair share to contribute to the organization's proper functioning. And usually the most effective way for them to do this is by fulfilling the demands of their roles. So the fair share theory provides a deeper explanation of the duties of individual people than does a role responsibilities view.

That is the fair share theory of the moral force of social norms. We have now seen the ideas that motivate it and how it is situated in contrast to other views. Let us thus turn to addressing the most serious objections to it.

28 Miller, *The Moral Foundations of Social Institutions*.

29 Miller, *The Moral Foundations of Social Institutions*, 80.

30 Miller, *The Moral Foundations of Social Institutions*, 78–79.

31 A reviewer suggests that this is addressed in Miller, *The Moral Foundations of Social Institutions*, ch. 4. But this chapter, as I read it, mainly seeks to explain when collectives are morally responsible. Miller is not trying to explain why the moral obligations of individuals can derive from roles and so does not give a deep explanation of individuals' obligations.

3. CHALLENGES

3.1. *Directed Obligations*

The first serious challenge to the fair share theory is how it captures the directness of our duty to obey social norms. When you jump a queue, you do not equally wrong everyone who benefits from the queuing norm: you wrong the people in the queue especially. It is to them you owe an apology; it is them you must compensate for your wrongdoing. And they have special standing to resent and criticize you. Yet on the fair share theory, it is not clear why that would be. For on the theory, jumping a queue is wrong because it is not doing your fair share to uphold norms that help to discharge our collective obligations. But your duty to do your fair share to uphold such norms is owed to all others with the collective obligation, not to those in the queue especially. So it is not clear why those in the queue are wronged especially by your queue jumping.³²

This is also a problem for the agency respect theory. On this theory, queue jumping wrongs those who are committed to the queuing norm. But those outside the queue might be just as committed to the norm as those in it, so it is not clear why you wrong those in the queue especially. In response to this problem, Valentini suggests that “some social norms confer rights as control on individuals.”³³ If you are in a queue, the queuing norm grants you the ability to control whether I may go in front of you or not. The norm does not simply forbid me from going in front of you. Rather, it says that you must not jump the queue unless everyone in it says you can. Thus, people in the queue can impose obligations on you. Moreover, Valentini believes that all it is to be the recipient of a directed obligation, in an important sense, is to have the kinds of control rights that social norms sometimes confer on individuals.³⁴ The idea is that I wrong you when I do something impermissible that you had the power to forbid. So we wrong people by jumping a queue.

This strategy seems unsatisfactory. I doubt that violating such control rights is sufficient for wronging someone in the relevant sense. To see why, notice that we can give people control rights artificially. Suppose you live in a brutal autocracy, and the dictator says he will start killing innocent people unless you obey his son. You should do what the son says. The son has the power to impose obligations on you: when the son tells you to do something, you should do it. Yet you do not wrong the son by spurning his commands. You do not owe

32 This is David Owens's main objection to the kind of view I endorse. See Owens, *Bound by Convention*, 29–30.

33 Valentini, *Morality and Socially Constructed Norms*, 215.

34 Valentini, *Morality and Socially Constructed Norms*, 123–26.

the son compensation or an apology for disobeying him, nor can he fittingly resent you for such disobedience. So merely violating someone's "rights as control" does not wrong them in the sense that we wrong the victims of our norm violations. I think this worry generalizes to any version of Valentini's strategy. At root, Valentini aims to identify a particular normative position and say that whether an impermissible act wrongs you depends on whether you are in this position. But when we create normative positions artificially, those in such positions (e.g., the dictator's son) are not wronged by relevant impermissible actions. So I doubt any story of this kind captures the kind of directed obligations operative in norm violations.

Fortunately, there is another, better story available (to both the fair share theory and the agency respect theory). This other story hinges on the observation that when you violate a norm, the *harm* of your norm violation does not fall on everyone equally. It falls especially on the victims of your violation. When you violate the queuing norm, the harm of your violation falls on the people already in line. It is they who have to wait longer for a seat on the bus. The people most harmed by your wrongdoing are those waiting in line, not all those who benefit from the queuing norm. I propose to use this fact to explain the directedness of conventional obligations.

To do this, we need a substantive claim about directed duties. I believe we have weighty directed duties not to foreseeably harm people by our wrongdoing. We owe it to people not to foreseeably set back their interests as a result of our wrongful actions.³⁵ To provide some evidence for this claim, consider recklessness. Suppose you drive home drunk. You wrong everyone on your route home by imposing a risk on them. Now suppose additionally that because you are drunk, you lose control of your car and crash into someone, injuring them. You harm the person you injure. By harming them, you wrong them more seriously than those you merely imposed unrealized risks on. Yet it is not wrong in itself to lose control of your car and crash; if you had crashed because of ice or fog or bad luck, you would not have wronged the person you injured. You wrong this person because your crash stemmed foreseeably from your own prior wrongdoing—your decision to impose risks on people. And you owe it to them not to foreseeably harm them by your wrongdoing.

This allows us to explain why the perpetrator of a norm violation wrongs the victim especially. The harms of their wrongdoing foreseeably befall the victim, and they have a weighty moral obligation not to foreseeably harm people by their wrongdoing. This is a directed obligation, so the perpetrator has violated

35 For a more extensive defense of this kind of view, see Cornell, "Wrongs, Rights, and Third Parties."

a weighty directed duty to the victim. This is why they owe it to the victim to apologize to them. They must apologize for harming them via their wrongdoing. And it is why the victim can resent them; they can resent that the perpetrator's wrongdoing has led to a harm befalling them and so wronged them. As I have said, this view is open to both the agency respect and the fair share theories of conventional normativity. I believe it captures why social norms generate especially directed obligations.

Let me make two remarks about this view. First, I do not endorse the claim that whenever your actions cause some harm to befall someone, then you wrong that person. Causation is too promiscuous for this to be plausible. Suppose my wrongfully lying to someone causes them to release some butterflies in Brazil. One of these butterflies flaps its wings, and that causes a tornado in Texas. I harm some Texans, but I do not wrong them. Instead, the principle I endorse says that it is only when a harm is the *foreseeable* consequence of your wrongful actions that you wrong those who suffer the harm. Something is a foreseeable consequence of my actions, I think, when I have sufficiently good evidence that it will result from my actions. I could not, by this standard, foresee that my lie would cause a tornado in Texas. But when I jump in front of someone in a bus queue, it is very easy to foresee that it will set back one of their interests—specifically, their interest in getting on the bus as soon as possible. So it is specifically foreseeable harms that generate directed obligations out of undirected wrongs.

Second, I want to address a worry about the view. One might think that some violations of social norms are harmless but still wrong the victim especially. Suppose we are at a campsite, and I take your barbeque gear without your permission when you are away for the day.³⁶ I put it back before you return, and you never know about the theft. I have wronged you especially, but where is the harm? You might think my theft is a harmless wrongdoing, that it leaves you no worse off. But that thought rests on too narrow a conception of harm. Harms are not only what give you bad feeling or waste your time; harms include things that set back your autonomy interests. These are interests in controlling parts of the world, deciding what happens in those parts of the world.³⁷ My theft impairs this interest of yours, even if you remain ignorant of it. And so it

36 Cf. Valentini, *Morality and Socially Constructed Norms*, 58.

37 A reviewer worries that this overgeneralizes: it means that I have an interest in controlling, e.g., other people's property. I am unsure about whether this is overgeneralization. But if the reader thinks it is, there are various ways to restrict the relevant interest. We might restrict it by saying we have an interest in controlling only parts of the world that we have a reasonable expectation of controlling, where the reasonableness of an expectation is spelled out epistemically.

does harm you in some respect. By harming you in this respect, it wrongs you. We can treat many cases of putatively harmless wrongdoings with a properly expansive account of people's interests.

3.2. *Pointless Norms*

Let us look at a second challenge. The fair share theory of conventional obligations gives us a reason to obey only norms that have a point, that genuinely help us to discharge one of our collective obligations. I have said this is a virtue of the theory. Yet one might think that there are many norms we should obey that do not have such a point. At dinners in Oxbridge colleges, for example, people must stand while grace is read out before their meal. One might be inclined to view this (and perhaps several other Oxbridge norms) as entirely pointless. Standing while grace is read out, one might think, does not help us to discharge any of our collective obligations. Yet still, if you visit an Oxbridge college, you should stand for grace. The agency respect theory can explain this: the norm of standing for grace expresses the agency of members of the college, and so standing is required to respect this agency. The norm might have no point, but one should respect it nonetheless. So perhaps these cases are evidence against the fair share theory.

I doubt it. The fair share theory can explain why we should obey *seemingly* pointless norms. The simple observation is that such norms are often much less pointless than they appear. Standing during grace is, among other things, a ritual; it is something that all the members of the college do together. Rituals have many beneficial effects.³⁸ Perhaps most importantly, they promote group cohesiveness. They increase the emotional bonds between participants and the likelihood that participants will make sacrifices for the good of the group. We may well have collective obligations to help bring about such group cohesiveness, or at least collective obligations the satisfaction of which is served by such cohesiveness. And so standing at grace may well help us to satisfy our collective obligations. Expressive considerations also furnish a point for many superficially pointless norms. Think about men taking off their hats when they enter a church. This expresses respect for the relevant religion. We plausibly have collective obligations to not disrespect people's religions, so the norm helps us to discharge a collective obligation. There are many ways in which norms that seem pointless on their face have a point on deeper investigation. And so it is perfectly explicable on the fair share theory why one should obey such norms.

Let me address one worry about this line of thought. The line of thought commits me to a degree of liberalism about when we have collective obligations.

38 For an overview, see Xygalatas, *Ritual*.

One might worry that I am too liberal. The worry is that there are beneficial systems of social norms that we do not have a duty to uphold. Suppose, for example, that your neighbors decide to set up a system of public entertainment on local radio. The system has certain norms: that every community member should spend a day running the radio station. But you never agreed to the system being set up. Everyone does benefit from this system of public entertainment, but you (plausibly) do not have a moral obligation to contribute your time to running it.³⁹ The worry is that if we are liberal about what collective obligations people have, then the fact this system benefits people establishes a collective obligation to set it up. And so the fair share theory will implausibly imply that you should help run it. Our response to the problem of pointless norms, the worry goes, overgenerates obligations.

I do not think that is correct. I have said that we might have collective obligations to promote group bonds or to express respect for people's religions. But that does not imply we have collective obligations to entertain our community with a system of public entertainment. That is because, as discussed in section 2 above, we have a collective obligation to fulfil only morally serious goals. Mildly alleviating community members' boredom is not particularly morally serious. Expressing respect for their deeply held beliefs is morally serious. The underlying point is that the line of thought I have advanced does not commit us to the claim that we have collective obligations to bring about every benefit we are capable of bringing about. It commits us only to the claim that we have collective obligations to bring about benefits associated with morally serious goods. So it does not imply that individuals have a duty, in particular, to contribute to public systems of entertainment that their neighbors unilaterally set up.

3.3. *Secrecy*

Let us consider a third challenge. Suppose you are able to violate a norm in complete secrecy. Perhaps, for example, it is a norm in one's society that one pays one's taxes in full. But you can easily get away with underpaying your taxes. You have received some cash payments, and you can refrain from declaring them without telling anyone that you are doing it. Here, we might deny that you actually paying your taxes in full contributes to upholding the norm that people pay their taxes in full. If nobody ever finds out that you did not pay, it seems nobody else will be dissuaded from paying their taxes. And it seems one can continue to criticize others for nonpayment even when one is oneself a tax cheat. But then we might resist the idea that paying your taxes is doing your fair share to uphold the norm. It makes no causal contribution to maintaining the

39 Cf. Nozick, *Anarchy, State, and Utopia*, 93.

norm. So the fair share theory seems to imply incorrectly that if one can secretly violate a norm, one has no moral obligation to conform to it.

In response to this, we need to reiterate what exactly one is required to do to contribute to maintaining a norm. One is not required merely to comply with the norm. Instead, one is required to internalize it. Internalizing a norm means taking it as a rule for your own and others' actions. Internalization is required because it is what most supports the norm—internalization most robustly supports people's enforcement of and conformity to the norm.⁴⁰ We can now diagnose the issue with secretly violating norms. If you have actually internalized a norm, you will not secretly violate it in the way described. If you really take the norm to be a standard for your own behavior, you will not even violate it secretly. So the problem with secretly violating the norm is that it implies you have fallen short of your duty to internalize the norm. In other words, internalizing the norm implies that you comply to it, and if you are obligated to internalize the norm, you are also obligated to comply to it—whether or not anyone will know about your norm violations. Noncompliance means lack of internalization.

3.4. *Discretion*

Let me address a final challenge to the fair share theory. I have suggested that maintaining norms often serves morally serious goals, so one has a duty to do one's fair share to maintain those norm. But suppose that on some occasion, internalizing a norm is not the best way to promote the goal it ultimately serves. Consider tipping at high-end restaurants. Suppose that quite generally, the tipping norm serves the goal of ensuring waitstaff are paid sufficiently for their work. Yet suppose the waiters at high-end places are already well paid. So you would better serve the goal of ensuring workers are sufficiently paid by saving your money and tipping more elsewhere. The concern is that this means that the fair share theory implies incorrectly that you do not have a duty to tip at fancy establishments.⁴¹ More generally, the worry is that the fair share theory gives people more discretion than they have about whether to comply with social norms. We do not generally have a choice about whether to comply with social norms, but the worry is that the fair share theory says that we do.

We can straightforwardly address this version of the discretion worry. The fair share theory does not only say we have collective obligation to serve some ultimate moral goal. As outlined in section 2, it says we have collective

40 For more on the import of internalization, see Kelman, "Compliance, Identification, and Internalization"; and Henrich, *The Secret of Our Success*, 189.

41 I interpret this as the worry in Valentini, *Morality and Socially Constructed Norms*, 65n17.

obligations to take the reliable means to that goal. So we have a collective obligation to maintain social norms that serve the relevant goals. Thus, we have a duty to do our fair share to maintain those norms—not merely to promote the ultimate goal. We cannot do our fair share to maintain a social norm by contravening it. You do not help maintain the tipping norm by not tipping. And so even if not tipping would better serve the goal of ensuring workers are sufficiently paid, you should still tip. If you contravene a norm, you violate your fair share obligations.

Still, there is a version of the discretion worry that is more difficult to address. I have said that we have a duty to contribute our fair share to the maintenance of social norms. But one might do this without internalizing those norms. Suppose I spend all my money on an advertising campaign reminding people to tip and work tirelessly to set up organizations promoting tipping. This might contribute more to the maintenance of the tipping norm than would tipping myself. So one might think that this exhausts my fair share contribution to maintaining the norm. Yet I would do something wrong if I ordered a meal and did not tip. I do not have discretion over how to contribute to maintenance of the norm: at minimum, I have to comply with the norm, no matter how else I contribute to its maintenance.⁴² Is this compatible with the fair share theory of conventional normativity?

I think it is, but to explain it, we have to supplement the fair share theory with some relational egalitarian ideas. The background to these ideas is that some relationships are relationships of superiority and inferiority. Think of the relationship between a Brahmin and a Dalit. Their respective positions in the caste hierarchy put the Brahmin above the Dalit; the hierarchy makes the latter a social inferior. And this wrongs them. We have a claim against being subjected to inferiority. Niko Kolodny is perhaps the foremost theorist of such relationships. He thinks of these relationships in terms of regard.⁴³ You can, he thinks, show someone relatively low regard by esteeming them less than others or by caring about their interests less. Kolodny thinks that relationships of inferiority are partly constituted by differential regard. When one shows one

42 Wellman discusses this issue at length in defending a fair share theory of political authority (“Samaritanism and the Duty to Obey the Law”). Wellman thinks that exercising discretion is valuable, so those who exercise discretion sacrifice less than those who comply with the laws (40–46). I do not think this is a successful response to the worry. Discretion can surely be traded off against other goods. If I spend all my time and money supporting laws but sometimes break them, then I sacrifice more in supporting the laws than do mere law-abiders. I may enjoy a bit more discretion, but the value of this is outweighed by my other sacrifices. *Mutatis mutandis*, the same goes for norms.

43 Kolodny, *The Pecking Order*, 101–16.

person less regard than another, one puts the first person in a relationship of inferiority, thereby wronging them.

For our purposes, the key further thought is that when you encourage other people to obey norms that you yourself do not obey, you elevate yourself above them. That is because such actions show them less regard than one shows oneself. To see this, suppose I always demand that my colleagues pay meticulous attention to their appearance, but I never pay any attention to my own appearance. I criticize colleagues who come to work in casual clothes or without makeup, but I always appear slovenly. Here, I am demanding other people keep to norms that I do not keep to myself. This is a way of putting myself above these other people, of showing myself more regard. And so it subjects them to a relationship of inferiority. This is true even if there is no independent moral reason to comply with these presentational norms: it might be that nobody is antecedently morally obligated to pay meticulous attention to their appearance. Still, if I expect others to dress well while I dress slovenly, I put myself above them. And this is true even if I undertake more of a burden than they do to uphold norms about good self-presentation overall. Perhaps I report my colleague's poor self-presentation to human resources, at considerable cost to my working relationships. Perhaps I even give them money to dress better. Still, by holding them to norms I spurn, I put myself in a position of superiority.⁴⁴

These ideas explain what goes wrong in cases in which someone contributes to maintaining a norm without complying with the norm. That person puts themselves above those they expect to comply with the norm, which violates these people's relational claims. That, then, is our solution to the more difficult discretion problem. Those who promulgate norms without keeping to them put themselves above those who they expect to keep to those norms. Moreover, clearly, if it is correct, the ideas behind the fair share theory do not explain the moral force of social norms in the cases that generate the more difficult discretion problem. That is a weakness of the fair share theory. It is better to explain more rather than less. But I do not think it is a very serious weakness. This more difficult discretion problem hinges on cases in which someone contributes a lot to maintaining a norm but does not comply with norm. Such cases strike me as *recherché*—I suspect they happen rarely in real life. So they are less crucial to explain than more common cases: the core explanatory target of the fair share theory is the most commonplace cases in which social norms have moral force.

44 What if I hold my colleagues to demanding self-presentation norms precisely because I think *they* are better than *me*—and so they should dress more neatly? Perhaps then these relational egalitarian ideas do not apply. But in this case, if I contribute to maintaining the norm in other ways, it strikes me as unclear that I am obligated to myself obey the norm.

Thus if the fair share theory explains the moral force of social norms in more common contexts, the theory hits its explanatory target.

Still, one might wonder whether these relational egalitarian ideas can explain the moral force of social norms in these other contexts.⁴⁵ If so, that would provide a competing explanation for the fair share theory. But I doubt these relational egalitarian ideas have such explanatory potency. The problem is that often norm breakers have little inclination to maintain the norms they break. Reconsider the tipping norm. I might refrain from tipping because I generally oppose tipping. In this case, I do not expect others to tip, nor do I try to get them to conform to the tipping norm. And so there is no sense in which, when I do not tip, I show less regard to other people than I show to myself. Similarly, when Italians come to London, they may have no inclination to enforce the queuing norm. An overly nosy English aunt may have no intention of promoting restrictive English familial norms. Norm breakers are typically dissenters rather than hypocrites. The relational egalitarian thought has little traction in these cases, and so provides a very limited explanation of the moral force of social norms. For a more general explanation, we need the fair share theory.

That addresses what seem to me the most serious challenges to the fair share theory of conventional obligations.

4. CONCLUSION

Why should you queue up at London bus stops, tip 20 percent in New York City, or refrain from criticizing your English nephew's bachelorhood? I have suggested that this is not because we must respect the agency of those who support such social norms. Rather, it is because such norms serve genuine moral goals, and we should do our fair share toward maintaining norms that contribute to these goals. The critical idea behind this view is really a conception of human nature: that we are norm-following creatures. This conception has emerged from the work of anthropologists and other social scientists over the last several decades. It underpins the idea that social norms are causally special: they are the most reliable means of achieving various serious moral goals. This idea drives the fair share theory of conventional obligations. This theory can explain the core cases in which social norms have moral force, and we can address the most serious challenges to it. I believe it is the most plausible account of why we have an obligation to obey social norms.

45 For this kind of view, see Monti, "Are There Any Conventional Obligations?"

I have said little about the wider applications of the fair share theory in this article. But in fact, I think it explains a whole swathe of moral phenomena. We can understand rights quite generally—autonomy rights, property rights, privacy rights, and so on—in terms of the fair share theory. The initial observation behind this understanding is that we have collective obligations that correlate with these rights. We have collective duties, for example, to ensure people have control over their bodies. Fulfilling these collective obligations is very difficult due to the motivational and epistemic issues adduced in section 2. Enter social norms. Setting up or maintaining social norms that constrain people's behavior is the most reliable means of satisfying these collective obligations. So collectively, we have a duty to support such norms, and individually, we have a duty to do our fair share in supporting them. Our duty to respect people's rights is a duty to do our fair share in support of good norms. Of course, much more needs to be said to spell out and defend this conventionalist theory of rights. More, for example, needs to be said about what our moral obligations are in the absence of social norms. But that I leave as a task for another occasion.⁴⁶

Australian Catholic University
adam.lovett@acu.edu.au

REFERENCES

- Chudek, Maciej, and Joseph Henrich. "Culture-Gene Coevolution, Norm-Psychology and the Emergence of Human Prosociality." *Trends in Cognitive Sciences* 15, no. 5 (2011): 218–26.
- Cornell, Nicolas. "Wrongs, Rights, and Third Parties." *Philosophy and Public Affairs* 43, no. 2 (2015): 109–43.
- Dietz, Alex. "What We Together Ought to Do." *Ethics* 126, no. 4 (2016): 955–82.
- Gilbert, Margaret. *A Theory of Political Obligation: Membership, Commitment, and the Bonds of Society*. Oxford University Press, 2006.
- Hart, H.L.A. "Are There Any Natural Rights?" *Philosophical Review* 64, no. 2 (1955): 175–91.
- Henrich, Joseph. *The Secret of Our Success: How Culture Is Driving Human Evolution, Domesticating Our Species, and Making Us Smarter*. Princeton University Press, 2016.
- Huemer, Michael. *The Problem of Political Authority: An Examination of the*

46 For helpful feedback on this material, I would like to thank an audience at the University of California, Berkeley; an audience at the London School of Economics; two anonymous reviewers for this journal; and especially Laura Valentini.

- Right to Coerce and the Duty to Obey*. Palgrave Macmillan, 2013.
- Kelman, Herbert C. "Compliance, Identification, and Internalization: Three Processes of Attitude Change." *Journal of Conflict Resolution* 2, no. 1 (1958): 51–60.
- Kolodny, Niko. *The Pecking Order: Social Hierarchy as a Philosophical Problem*. Harvard University Press, 2023.
- Marmor, Andrei. *Social Conventions: From Language to Law*. Princeton University Press, 2009.
- Maskivker, Julia. *The Duty to Vote*. Oxford University Press, 2019.
- Melenovsky, C. M. "Promises, Practices, and Reciprocity." *Philosophical Quarterly* 67, no. 266 (2017): 106–26.
- . "The Reasons to Follow Conventional Practices." *Australasian Journal of Philosophy* 102, no. 3 (2024): 710–25.
- Miller, Seumas. *The Moral Foundations of Social Institutions: A Philosophical Study*. Cambridge University Press, 2009.
- Monti, Ezequiel. "Are There Any Conventional Obligations?" *Legal Theory* 29, no. 2 (2023): 90–121.
- Murphy, Liam B. *Moral Demands in Nonideal Theory*. Oxford University Press, 2003.
- Nozick, Robert. *Anarchy, State, and Utopia*. Blackwell, 1974.
- Owens, David. *Bound by Convention: Obligation and Social Rules*. Oxford University Press, 2022.
- Parfit, Derek. *Reasons and Persons*. Oxford University Press, 1984.
- Rakoczy, Hannes, Felix Warneken, and Michael Tomasello. "The Sources of Normativity: Young Children's Awareness of the Normative Structure of Games." *Developmental Psychology* 44, no. 3 (2008): 875–81.
- Rawls, John. *A Theory of Justice*. Harvard University Press, 1971.
- Simmons, A. John. *Moral Principles and Political Obligations*. Princeton University Press, 1979.
- Tosi, Justin. "Rethinking the Principle of Fair Play." *Pacific Philosophical Quarterly* 99, no. 4 (2018): 612–31.
- Valentini, Laura. *Morality and Socially Constructed Norms*. Oxford University Press, 2023.
- . "Respect for Persons and the Moral Force of Socially Constructed Norms." *Noûs* 55, no. 2 (2021): 385–408.
- Wellman, Christopher. "Samaritanism and the Duty to Obey the Law." In *Is There a Duty to Obey the Law?* edited by Christopher Wellman and John Simmons. Cambridge University Press, 2005.
- Xygalatas, Dimitris. *Ritual: How Seemingly Senseless Acts Make Life Worth Living*. Profile Books, 2022.