



# “When in Rome...”: on the Authority of Social Norms

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Accepted: 26 March 2025  
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“For the matters of the law are adventitious.  
whereas those of nature are given”.

*Antiphon, Fragment 44.*

Moral norms are authoritative regardless of their social recognition. It doesn't matter whether your community believes that murder is wrong for murder to be wrong and for norms prohibiting it to be binding. Social norms, on the other hand, are essentially social and recognition-dependent. Yet sometimes they are authoritative too, and violating them can make moral reactive attitudes fitting. For instance, if you walk into a Hindu temple without taking your shoes off, as the relevant social norm prescribes, you might feel some appropriate guilt, and bystanders might blame you. The same holds when violating culture-specific norms specifying the appropriate standards of behavior within certain relationships (e.g., romantic, friendly, and family ones), and in a variety of other cases.

The debate on moral norms and standards is as old as philosophy itself. But social norms (or conventions – I shall use the two terms interchangeably) have finally begun attracting attention too. I say ‘finally’ because the topic is far more consequential than the attention it has received thus far suggests. In legal theory, those who believe that there is a moral obligation to obey the law tend to see at least some socially constructed norms (i.e., legal norms) as morally binding, whereas skeptics deny this; in moral philosophy, relativists tend to see at least some social norms as morally binding, while universalists do not; in political philoso-

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This article is part of the project No. 2021/43/P/HS1/02247 co-funded by the National Science Centre and the European Union's Horizon 2020 research and innovation programme under the Marie Skłodowska-Curie grant agreement no. 945339. For the purpose of Open Access, the author has applied a CC-BY public copyright licence to any Author Accepted Manuscript (AAM) version arising from this submission. The final adjustments to this article were added while benefitting from funds provided by FCT (the Portuguese Foundation for Science and Technology). Funding ID: 2022.08476.CEECIND/CP1725/CT0055, <https://doi.org/10.54499/2022.08476.CEECIND/CP1725/CT0055>.

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phy, communitarians often emphasize the importance of culturally-specific practices and their underlying norms, while liberals prioritize the value of individuals when this conflict with the local norms of a community. Such a topic, as we can see, has several ramifications.

The authority of social norms is the subject of two sophisticated books published in the last three years, namely David Owens' *Bound by Convention* (2022) and Laura Valentini's *Morality and Socially Constructed Norms* (2023). In this essay, I offer some guidance about the content and theoretical outlooks of these two books (Sect. 1). Then, I proceed to criticize both. First, I point out a flaw in Valentini's ontological account of social norms, according to which such norms obtain in virtue of the beliefs and commitments of rule-followers. More specifically, I argue that such an account – to make sense – should include a reference to the desires of rule followers too (Sect. 2). Then I develop Valentini's crucial criticism against Owens, according to which his account cannot make sense of the obligatory character of certain social norms (Sect. 3). Indeed, her criticism drew upon Owens' previous writings and only a draft version of his book.<sup>1</sup> But in the final version of the book Owen addresses that criticism, and it is worth considering whether it does so successfully. I shall argue that Owens' answer fails in a way that reveals even deeper flaws than those that Valentini recognizes.

1. Both Owens and Valentini aim at a moderate form of conventionalism. Their accounts are *conventionalist* in that they both reject the deflationary view, according to which social norms borrow their normativity entirely from pre-conventional principles. On the deflationary view, social norms (e.g., one should drive on the right) just cause certain facts to obtain (e.g., people driving on the right) and these facts, in turn, trigger certain independent, pre-conventional moral principles (e.g., one should not cause needless harm) that make the social norm binding (if you should not cause needless harm when people are driving on the right, then you should comply with the social norm and just drive on the right). However, both Owens' and Valentini's accounts are *moderate* rather than *brute* forms of conventionalism in that they deny that one always ought to conform to what a given social norm, in each context, dictates. Indeed, brute conventionalism entails an extreme form of relativism and has unpalatably conservative implications. Plausibly, social norms are not always binding and authoritative. Only certain social norms, and only sometimes, have the moral bindingness of morality. So, when and why are certain social norms authoritative?

What separates the two accounts are the stories they respectively tell about the moral normativity of social norms and the tests they propose to identify those social norms that are genuine sources of moral obligations.

Owens' story is offered in part I of his book, comprising chapters from 1 to 4. It is quite convoluted but fascinating, as it relies on original conceptual resources. In his view, certain social norms retain moral normativity and thus warrant blame and other reactive attitudes if violated when such norms are grounded in 'normative' or 'deontic interests'. Like interests in general (food, shelter, human connection, etc.), normative/deontic interests are things that improve our lives. They are deontic in the sense that it is intrinsically good to be bound by certain social norms and to be obliged by them, precisely because being so bound makes our lives better, adds texture to them, and contributes to enchant and give meaning to the social

<sup>1</sup> Especially Owens (2012) and (2017).

worlds in which our lives unfold (2022: 7). Consider, for instance, social norms positing parental obligations to support one’s kids and their culturally variable content. Such norms further the kids’ non-deontic interest in being supported, sure, but also both the parents’ and the kids’ deontic interests in being tied together in specific and socially recognized ways. Quite clearly, obligations are not what move a loving father – hopefully, his care and support come from love, affection, and other emotions – but it is important and good, for Owens, that parental obligations are in place. ‘My daughter – he observes - usually needs it to be a point of loyalty between us that I help her, that I am obliged to help her’ (2022: 20).

One might wonder what role the social recognition of such norms plays in this account. Owens answers that, without some degree of social embodiment and recognition, the deontic values undergirding such norms will be left unrealized: if I were to make up my own family rules, such rules would lack the richness, sophistication, stability, and usefulness that their socially recognized counterparts have (2022: 21–24).

An objection comes to mind here. Owens does not address it explicitly, but it probably informs his view. Consider the social norms of honor cultures, which require (or at least permit) quite an extensive amount of violence in response to real or perceived attacks on one’s social status.<sup>2</sup> In most honor cultures, these norms form a sophisticated net that dictates the appropriate standards for a variety of behaviors; they historically proved to be quite stable; and in some contexts they are certainly useful to some degree, for they deter predatory aggression and prevent escalations of vengeance cycles. And - no doubt - they also enchant the social world and add texture to the lives of those living in it, shaping their social identities.<sup>3</sup> In this sense, people have a deontic interest in being bound by them. Yet such norms also strike us as morally wrong. So, ought one to conform to such norms? To say ‘no’, Owens must probably concede that to have a deontic interest in being bound by certain norms, one must also have a non-deontic interest in the norm being respected. There must be some uncontroversial value that conforming to the norm may serve, making the norm and the practice it structures non-deontically good.<sup>4</sup>

Valentini’s account is more straightforward and parsimonious, as it relies on independently plausible principles and conceptual resources. She offers it in the first three chapters of her book. For Valentini, social norms inherit moral normativity from what she calls the agency-respect principle, a familiar precept prescribing respect for the peculiar ways in which people express their agency, e.g., the projects they pursue in their lives and the commitments they have. How does this principle bear on social norms? The basic argument is the following. The first premise concerns the ontology of social norms, which Valentini conceptualizes in these terms: a social norm *N* (e.g., ‘one ought to queue when boarding the bus’) obtains when *N* is widely and publicly accepted in a certain group, that is, when enough people in the group believe that *N* and have a genuine, authentic commitment to *N* (i.e., a robust intention that *N* is respected) (2023: ch. 1). The second premise consists in

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<sup>2</sup> Owens mentions but readily dismisses such norms when he writes that ‘not all recognized social rules (like the code duello) serve values of any sort, conventional or otherwise’ (2022: 8). This observation strikes me as puzzling because the norms formalized in the Irish code duello of 1777 – and others similar sets of norms – quite explicitly served the obvious values of honour, harm reduction, and de-escalation. For a vindication of honour norms see Testini (forthcoming).

<sup>3</sup> See Boehm (1986).

<sup>4</sup> Admitting this, of course, would bring Owens’ view quite close to (but not necessarily on a par with) the sort of reductive accounts he rejects. He seems to have this point in mind when he writes that ‘deontic values may depend in various ways on other values, but they cannot be reduced to them’ (2022: 26; see also p. 60).

the plausible claim that respecting other people's agency requires respecting, among other things, other people's commitments. From this, it follows that one has a pro tanto moral duty to conform to N out of respect for other people's agency (2023: ch. 3).

One might wonder whether this view is too generous, supporting conformity with problematic social norms. But Valentini posits a series of provisos to narrow down the range of authoritative social norms. In addition to being the outputs of authentic commitments (i.e., commitments that did not originate in adaptive preferences, false consciousness, and the like), such norms must also be morally permissible and not too costly to respect (2023: 90–4). On this view, what is wrong with skipping the queue, stepping into a Hindu temple with your shoes on, etc. (and what warrants the reactive attitudes that doing so generates), is precisely the disrespect that breaching such norms expresses toward norm-supporters and their commitments.

These are, roughly, the theoretical accounts underpinning the two books. Valentini spends considerable resources in elucidating the differences (and merits) of her view against competing ones - such as Scanlon's principle of established practice (1998, p. 339), Gilbert's joint commitment's view (2006), and Nieswandt's conventionalism (2018). She does so thoroughly and rigorously, dedicating an entire chapter to the task (ch. 2). Owens, on the other hand, scatters his comparative considerations throughout part I of his book and he is not as thorough in locating his contribution within the existing literature.<sup>5</sup>

Both books have much more to offer than a general theory. Indeed, both authors bring their respective theories to bear on a variety of topics in practical philosophy, about which they offer original and valuable contributions. Consider first how Owens brings his account to bear on the value of competitive games and sports (ch. 5) – other applicatory chapters concern the culturally variable norms related to family roles (ch. 6), private property (ch. 7), truthfulness (ch. 8), and privacy (ch. 9). For Owens, the value of competitive sports and games, and the authority of their constituting rules, for participants, do not reside entirely in their fringe benefits (like physical exercise, the thrill of the challenge, the prestige coming from winning, etc.). Such activities are also valuable for their own sake, because they involve a valuable form of deontically-inflected human connection, namely rivalry. Just as there is a special point in getting help and support from a friend or a parent out of the obligations that come with their role, so there is a distinctive deontic value in being challenged by a rival, and it's such a value that grounds the authority of the rules under which you engage with him.

Consider, secondly, how Valentini applies her view to political obligation, i.e., the alleged moral duty to obey the law because it is the law (ch. 5) – other applicatory chapters focus on the grounding of moral rights (ch. 4) and the wrongness of sovereignty violations (ch. 6). The agency-respect view allows grounding political obligation in a way that is sensitive to the concerns of those who deny there is such a thing. Granted that legal norms are morally permissible, people's commitment to them is authentic, and adhering to them is not too costly, they do place pro tanto obligations on us. Contrary to what supporters of political obligation imply, however, that obligation may be quite weak under the agency-respect

<sup>5</sup> Owens compares his account to Scanlon's principle of established practice at p. 26–31 and further discusses Scanlon's position in the chapter on relativism (ch. 4, *passim*). But his discussion of Gilbert's account never goes beyond sparse remarks in the footnotes, and he does not quote or discuss Nieswandt's account at all. It is worth pointing out, not without regret, that neither Valentini nor Owens offer a systematic discussion of Marmor's (2009) contribution on the topic of social norms and conventions.

view, for two reasons. Firstly, because its strength depends on the strength of the agential commitments sustaining the rule of law. Secondly, because conflicts between a legal norm and a social norm may well be solved in favour of the latter if the commitments supporting it are stronger than those supporting the former.

2. With a sketch of both theories in the background, I can now articulate my concerns about their fundamental structures.

As for Valentini, I have a reservation about her 'agential-investment model', i.e., her ontological account of social norms. As we saw, the model conceptualizes social norms as obtaining when the norm is widely and publicly accepted in a certain group, i.e., when both a cognitive and motivational condition are satisfied: enough people in the group must hold the belief that N *and* have a genuine commitment to N (that is, a robust intention that N is respected as a general standard of behaviour) (2023: ch. 1). My reservation stems from the role assigned to commitments, for intentions (of which commitments are a sub-genre) normally concern only what is within one's control, i.e., one's actions. So, how can someone be committed to a norm or, in other words, have a robust intention that the norm becomes a general standard of behaviour, when this clearly lies beyond the reach of one's actions?

Valentini defends her broad usage of the term by appealing to linguistic intuitions (e.g., we sometimes say that we intend other people to do things) and by drawing a parallel between her usage and Bratman's notion of shared intentions (Bratman 1999). But wouldn't it be more plausible to just say that enough people in the group must desire that N becomes a general standard of behaviour? If I understand her correctly, Valentini thinks that desires are neither sufficient nor necessary for satisfying the motivational condition, but the two arguments she offers to this effect are not equally persuasive. Consider the argument against sufficiency first. 'If asked, most people would declare a belief that they and others ought to pollute less, and may even desire that this rule were made an effective standard of behaviour. Yet [...] we are far from this wish [...] being turned into a social reality' (2023: 36). So far so good. But consider now the argument against necessity. Luigi, a devout catholic, believes that one should go to church on Sundays, always goes to church on Sundays, and disapproves of those who do not. But Luigi does not desire to go to church every Sunday. He finds it boring, yet he is nonetheless committed to the norm (2023: 36). This, for Valentini, suffices to say that desires are not necessary for a social norm to be in place - assuming, of course, that enough people like Luigi are around. This argument is not persuasive, however, because it trades on an ambiguity. Sure, Luigi might not desire to go to church every Sunday *himself*. But for his commitment to be in church every Sunday to make sense, he must certainly desire a world in which *people* go to church on Sunday.

This line of reasoning suggests a more thorough way of spelling out Valentini's agential investment account - a way that is more in line with Bratman's (1987) Beliefs-Desires-Intentions (BDI) model of agency in retaining desires as a necessary but not sufficient condition for the existence of social norms. On this formulation, a social norm N exists when enough people in a given group (1) believe that N, (2) desire that N becomes a general standard, and (3) commit themselves to do their part to make N a general standard of behaviour (personally complying with N, blaming and sanctioning those who do not, praising those who do, advocating for N, and maybe more).

This amendment is admittedly quite inconsequential. As Valentini (correctly) points out, one can modify the agential-investment model without jeopardizing the theory and without stopping agency-respect from playing a role in explaining the authority of social norms (2023: 22). I could not find good reasons to disagree. But if agency is to play an explanatory role concerning social norms, getting the notion of agency right is crucial.

### 3. Let me now develop Valentini's objection against Owens' account.

According to Valentini, Owens' account fits the available evidence well, but there is a gap in the explanation offered (2023: 69–74). When we ask how certain social norms requiring one to  $\phi$  (say, 'be friendly to your neighbors') can generate moral obligations to  $\phi$ , Owens answers that they do so when people (neighbors) have a normative interest in being obliged to  $\phi$  ('be friendly to one's neighbors'), and when the norm in question further that interest. However, it is unclear 'how a fact about what is good for us, coupled with an empirical observation about what furthers our good, can itself give rise to an ought, how it can ground a duty' (Valentini 2023: 73). Only an obligation can ground an obligation, and the social recognition (or, perhaps better, the social *construction*) of an obligation is not enough to bring an obligation into existence.

Owens himself raises this 'logical question' and addresses it at length (2022: 61–64 and 73–93). The gist of his answer is that the value of a socially recognized obligation can 'make sense' of its intentional fulfillment. In other words, the normative interests that ground social norms can make those norms, their authority over us, and our submission to them, 'intelligible', and he devotes much of Chap. 3 to show (in a way reminiscent of rule-utilitarians' efforts to justify rights and rules) how rational and pointful it is to be obliged by social norms and conventions. Now, notions like 'intelligible' and 'making sense', when applied to intentional actions, are ambiguous: we might understand them both in an explanatory key (i.e., psychologically) or in a more normative/evaluative key (appropriate to practical rationality). Owens eliminates this ambiguity by stating that the sort of understanding he is aiming for is primarily psychological and quite distant from the normative and evaluative considerations of practical reasoning.<sup>6</sup> In fact, according to Owens, the logical challenge 'can't be met so long as we tie the notion of a reason to the idea of good or valid reasoning' (2022: 62). If we instead maintain that the central connotation of a reason is 'something like a consideration that makes sense of action, emotion, etc. [as a bit of intentional agency], other possibilities open up' (2022: 62).

But Owens' disambiguation is - I believe - misleading, for notwithstanding his indications to the contrary, his answer to the logical question falls squarely in the framework of practical rationality. This becomes quite clear if we recast it employing the dual scale model of weighing reasons. In this model, a reason for  $\phi$ -ing has two sorts of weight: a requiring weight, which contributes to making  $\phi$ -ing obligatory (and thus not  $\phi$ -ing impermissible), and a justifying weight, which contributes to making  $\phi$ -ing permissible.<sup>7</sup> Altruistic reasons are a pointful illustration of such a model for they have considerable justifying weight but little or no requiring weight. If you  $\phi$  because 'it is good to help others in need', because 'I

<sup>6</sup> For instance, the section of ch. 3 in which he shows how acting out of convention 'makes sense as a bit of intentional agency' is titled 'the psychology of subscription' (2022, p. 82). But see also Sect. 3.3, 3.4, and 3.5, *passim*.

<sup>7</sup> Joshua Gert (2004) and Chris Tucker (2018) are among the most vocal supporters of the distinction.

want to make him happy', and for other altruistic reasons, you will have a perfectly valid justification for  $\phi$ -ing if someone were to challenge your choice to  $\phi$  as an impermissible one. But regardless of how many reasons you add up and how much justificatory weight in favor of  $\phi$ -ing you thereby gain, you will not get to establish that you ought to  $\phi$ .

We can reformulate Owens' reply precisely in these terms. Axiological considerations about normative interests, just like altruistic reasons, contribute to making the acceptance of the norms serving them intelligible, in the sense that they justify those who feel obliged by them. When deciding whether to conform to a given social norm or not, one can invoke those axiological considerations to make conformity permissible and, thus, justifiable.

Once put in these terms, I think, Owens' reply not only gains in clarity. It also displays its shortcomings more evidently, for axiological considerations about normative interests do not establish that we are obliged to do what a certain norm requires, but only that we are permitted to behave as the norm requires. Two critical considerations arise from this way of framing Owens' position. Firstly, the normative-interests view cannot vindicate the intuition – which I, Valentini, and others share – that we have a pro tanto moral obligation requiring us (and not just a justificatory reason permitting us) to conform to morally permissible social norms that are not excessively costly to respect. Consider again the Hindu temple example. Many of us would feel obliged to take our shoes off. But Owens' account does not show that we are. It only shows that it is permissible to feel obliged in that way, that it is morally permissible to subscribe to the rules of the land, opt in the relevant local practice, and accept its constitutive norms. Secondly – and relatedly – the normative interests view cannot make sense of the reactive attitudes that non-compliance elicits. If subscribing to the norm or opting into the relevant practice is permissible, but not required, the guilt you might feel when visiting the Hindu temple with your shoes on – and the blame that bystanders might direct at you – would not be fitting, for you would be – as it were – permitted to not be obliged. If this is correct, Owens' theory is deficient not only in explanatory power (as Valentini alleges) but also in terms of the degree to which it fits the evidence, for it cannot account for the intuitive normative pull of norms like those at play in the Hindu temple case.

Owens might reply that this is a feature of his theory, not a flaw. Intuitions like those involved in the Hindu temple case might not be widely shared, and even if they are, a moral theory has the right to be revisionary. This is a plausible response. Perhaps, notwithstanding intuitions to the contrary, no one is obliged to 'do as the Romans do'.

However, the real crux of the normative-interests view comes out even more sharply once we fully grasp the revisions it demands – especially when we consider how we should redirect reactive attitudes if we embrace it. As we just saw, it seems to follow from such a view that one becomes the appropriate target of reactive attitudes for defying a social norm only once she has permissibly decided to accept it and opt into the practice it constitutes. This reasoning is certainly correct for certain social norms, namely those regulating voluntaristic forms of associations like the rules of a sport setting two rivals against one another, or the specific norms of friendship in a specific social milieu. For instance, on most occasions, it is permissible for you to play chess with me, and it is only once you have agreed to play that you bind yourself by the rules of chess, take them as authoritative, and expose yourself to blame if you knowingly breach them. However, this reasoning is quite certainly false for social norms regulating non-voluntary forms of association. To see this, confront two scenarios in which norms like those involved in the Hindu temple case are breached. Sometimes, those breaching such norms are just disrespectful tourists with no intention

whatsoever of conforming to local standards. Some other times, those breaching such norms are good-willed yet distracted or naïve tourists, intending but failing to comply with local norms. Owens' view seems to imply that the respectful but naïve tourist is somehow more blameworthy than the disrespectful one, for the former fell short of standards she permissibly accepted, whereas the latter fell short of standards she permissibly rejected. Most readers, I believe, will concur with me in thinking that it should be the other way around.

Norms regulating other non-voluntary modes of association closer to Owens' focus of attention, like the family or the neighborhood, would suffer from this line of criticism just as much, if not more, and Owens is not willing to bite this bullet, for in the chapter dedicated to the family he declares that 'the mere fact that you didn't get to choose whether you are subject to a system of conventional norms does not mean that you are not subject to them' (2022: 167). However, if my line of criticism here is correct, we might legitimately wonder if Owens has the philosophical resources to support this statement. I might be shortsighted in this respect, but I could not find them.

4. It should be no mystery, at this point, which of the two books I think does a better job at providing a persuasive theory about the authority of social norms. Yet let me state, in conclusion, that both books have much to offer. They provide bold, sophisticated, and original general theories while managing to bring them to bear on a wide variety of hot topics in moral and political philosophy. In an era of increasing specialization, one can only wish that more philosophical books had comparable scope and depth.

**Funding** Open access funding provided by Università degli Studi di Milano within the CRUI-CARE Agreement.

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