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Locke's Humean conventionalism

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Socializing minds: intersubjectivity in early modern philosophy,

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ABSTRACT

This paper shows that Locke anticipates key features of Hume's more celebrated analysis of convention. It does so by developing Lenz's account of Lockean (linguistic) convention and its normativity, as presented in *Socializing Minds*. Locke's account of linguistic convention shares structural features also visible in Locke's treatment of the convention of money and property. The paper shows that Locke's 'Humean' account of convention responds to a lacuna in Pufendorf's treatment of linguistic convention that Lenz argues is significant to Locke.

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1. The Humean template

Modern analysis of convention (e.g. Riscorla, “Convention”) often starts by referring back to the following passage in Hume’s Second Enquiry (EPM)¹:

It has been asserted by some, that [vii] justice arises from HUMAN CONVENTIONS, and proceeds from the voluntary choice, consent, or combination of mankind ... if by convention be meant [i] a sense of common interest; which sense [ii] each man feels in his own breast, which [iii] he remarks in his fellows, and which [iv] carries him, in concurrence with others, into [v] a general plan or system of actions, which [vi] tends to public utility; it must be owned, that, in this sense, justice arises from human conventions. For if it be allowed (what is, indeed, evident) that the particular consequences of a particular act of justice may be hurtful to the public as well as to individuals; it follows, that every man, in embracing that virtue, [iii&v] must have an eye to the whole plan or system, and [iv] must expect the concurrence of his fellows in the same conduct and behaviour. Did all his views terminate in the consequences of each act of his own, his benevolence and humanity, as well as his self-love, might often prescribe to him measures of conduct very different from those, which are agreeable to the strict rules of right and justice ...

Thus gold and silver are made the measures of exchange; thus speech and words and language are fixed, by human convention and agreement

(M App3.7-8. Roman numerals added to facilitate discussion)

By ‘Humean convention’ (or ‘Humean template’) I mean to capture eight features highlighted by Hume: (i) a sense of common interest (ii) felt in each person’s breast; (iii) and it (that is, (i)) observed in others; (iv), this fact (the existence of (i-iii)) creates collaboration; (v) the collaboration is structured in non-trivial ways; (vi) this collaboration has good consequences or positive externalities for society. And (vii) a Humean convention is contrasted with practices founded on promises and/or regulated by formal governmental law. In addition, (viii), the process (i-iii) need not be verbalized at all. It can be entirely tacit.

So part of a Humean convention is a ‘just-so story’ about a convention’s genesis (i-iv) that appeals to fairly ordinary psychological features (i-iii). It tracks features that will maintain or reinforce the convention (v-vi). And it notes differentiating features from other social institutions (vii-viii).

It is important for what follows that one of Hume’s own explicit examples at M App3.8 viz. “two men pull the oars of a boat by common convention” is not a ‘Humean convention’ in the sense discussed here. This is so because it intrinsically lacks (vi), that is, a positive social externality. Two thieves may well row away from a crime scene. Rowing fails to instantiate a general plan or a system of actions. Merely, apparently spontaneous behaviour that benefits those that directly participate in it is, thus, not a ‘Humean

¹For texts published before 1900 I follow, where possible, the editions used by and referencing conventions of Lenz’s *Socializing Minds*, which uses author-short title format and paragraph number. I quote *Socializing Minds*, by page-number.

convention' as I use it. Rather, by a 'Humean convention', (or 'template') I focus on a larger scale social practice or institution like language, money, and property (which Hume calls 'justice' here).²

I stipulate that in (i-iii) the Humean template does *not* presuppose sympathy. Rather, the philosophical anthropology presupposed here has to be compatible with wide range of views on human nature, includes ones that emphasize self-regarding features.³

2. Locke on linguistic and political convention

In *Socializing Minds*, Martin Lenz calls attention to (and partially quotes) Locke's *Essay* 3.11.11. For Lenz, the passage describes what he (Lenz) calls the "acceptance conditions" as "consolidated by other members of the speech community" (130; see also 131). Lenz emphasizes, correctly, that for Locke the meaning of words is, in part, established by their proper common use: as Locke puts it,

men have ideas, determined ideas, for which they make these signs stand; but they must also take care to apply their words as near as may be to such ideas as common use has annexed them to. For words, especially of languages already framed, being no man's private possession, but the common measure of commerce and communication.

(*Essay* 3.11.11)

There is – as Locke's repeated use of 'propriety' in the same section signals – something normative about this 'proper'. This normativity is the effect of the speaker's desire to be understood and the fact that the correct usage has already been established.

The contrast between private property and a common measure that Locke invokes (at 3.11.11), echoes Locke's treatment of convention elsewhere. Lenz prepares the reader to notice this feature of Locke's social theory because earlier Lenz discusses Locke's account of convention and tacit consent when he introduced the idea of 'speaker consolidation' (110) through which linguistic conventions are themselves established and "set the standard for use" (111). In explaining this, Lenz appeals to Locke's earlier account at 3.2.8. There Locke inscribes his account of linguistic convention into his political theory in two explicit ways. First, and less significantly, he argues that once a linguistic convention is established even an absolute ruler has very limited power to tinker with it. In fact, Locke goes much further than this and has Augustus – an absolute ruler! – deny that he can innovate in language by stipulation ("arbitrarily

²So understood, the Humean template clearly influenced Adam Smith (Otteson, *Adam Smith's Marketplace*), although he was eager to allow for immanent criticism of apparently stable tacit conventions (Schliesser, *Adam Smith: Systematic Philosopher*).

³I thank Kathryn Tabb for pressing this point.

appoint"). However, on Locke's account, it seems Augustus' power does allow him to *corrupt* (by force or law) existing words and disassociate them from established ideas. (This is a sufficiently common phenomenon in political speech that I leave it to the reader to offer examples).

Second, through the linguistic convention the implied measure, or the existing common use of words, and its stability, in particular, rests, and this might be thought paradoxical, on the inviolable 'liberty' each and every one of us has to make words stand for any of our ideas! Notice, first, that this is a commitment to a practical egalitarianism of a sort that is akin to Locke's account of our relative status in the state of nature. Second, the analysis of the convention rests on a kind of methodological individualism. It is in virtue of the fact that 'naturally' all individuals have the power to innovate that once the convention is up and running in linguistic social life, Augustus is denied power to legislate meaning by fiat! This natural equality to innovate is ground in the fact that 'naturally' we do not have direct access to each other's ideas, which are inaccessible without some mediation of language or other signs.

What, on my reading, 3.2.8 adds to Lenz's account is that convention is not just needed for what Lenz calls speaker 'consolidation' or 'acceptance conditions' in making us adhere to pre-existing standards of use, but also helps explain why there can be different language communities. Because once there is (say) some geographic or political (or religious) distance between different language users, acceptance conditions can stabilize in locally different equilibria. Once they interact again (through trade, conquest, marriage, or migration) these conditions may well shift given the needs of exchange and social persuasion.

These appeals to property and credit make it tempting to explore Locke's account of tacit consent in the *Essay*. The following passage, on "The Law of Opinion or Reputation", makes explicit the role of convention in linguistic diversity (in the context of discussion moral terms), and also is one of the key bits of evidence that Locke anticipates the Humean template:

Virtue and vice are names pretended and supposed everywhere to stand for actions in their own nature right and wrong: and as far as they really are so applied, they so far are coincident with the divine law above mentioned. But yet, whatever is pretended, (iii) this is visible, that these names, virtue and vice, in the particular instances of their application, through the several nations and societies of men in the world, are constantly attributed only to such actions as (ii) in each country and society are in reputation or discredit. Nor is it to be thought strange, that (ii) men everywhere should give the name of virtue to those actions, which amongst them are judged praiseworthy; and call that vice, which they account blamable: since otherwise they would condemn themselves, if they should think anything right, to which they allowed not commendation, anything wrong, which they let pass without blame. Thus (v) the measure of what is everywhere called and esteemed virtue and vice is this approbation or dislike, praise or blame, which, (viii) by a secret and tacit consent, establishes itself in the several societies, tribes,

and clubs of men in the world: whereby several actions come to find credit or disgrace amongst them, according to the judgment, maxims, or fashion of that place. For, (vii) though men uniting into politic societies, have resigned up to the public the disposing of all their force, so that they cannot employ it against any fellow-citizens any further than the law of the country directs: yet they retain still the power of thinking well or ill, approving or disapproving of the actions of those whom they live amongst, and converse with: and by this approbation and dislike they establish amongst themselves what they will call virtue and vice.

(*Essay* 2.28.10. Roman numerals added to facilitate discussion)

Locke here anticipates an important aspect of Humean conventions, that is, that there is remarkable stability in moral terminology while there is enormous diversity what the content (qua behaviour or character) applies to. In Locke this is an *effect* of the fact that the meta-ethical measure that regulates the local linguistic convention just is local approval and disapproval (note the role of social credit here). I view this as key support for Lenz's analysis.

In fact, at 2.28.10, Locke explicitly anticipates nearly all eight features that constitute a Humean convention, except, perhaps, (i)&(iii). But since (ii) – individuals approve (etc.) – is present, (i) is presupposed in Locke's account. While I have not listed (iv) in the quoted paragraph, it is implied by the reality of shared moral life or practice.

At 2.28.10 Locke uses the contrast with an explicit political social contract in order to illustrate the nature of linguistic tacit convention. Locke claims that this convention operates orthogonally to the official political social contract: there are practices of approval and disapproval that are not regulated by law, but by independent judgement presumably in light of one's interest (like/dislike/approbation) and evaluation of what is praiseworthy. The point echoes Hobbes' and Spinoza's observation that the law cannot fully control (although certainly corrupt) the minds of the ruled; the ruled maintain an informal credit economy – or as we would also say, 'score' in a 'language game' – that tracks local judgements of merit. So, here, too, we see that in Locke the privacy of ideas is presupposed to maintain the conventionality of the shared linguistic social world.

Given that at 2.28.10 and elsewhere in the *Essay*, Locke's account of linguistic (Humean) conventionality is illustrated by way of analogy with institution of property and money, it invites comparison with Locke's account of the conventions of property and money in the *Second Treatise*. My analysis of it shows that Locke has an internally consistent 'template' of what a convention is that he applies to a number of large-scale social institutions, and this template anticipates Humean convention.

For example, in section 50 of the *Second Treatise* Locke writes:

But since gold and silver, being little useful to the life of man in proportion to food, raiment, and carriage, has its value only from the consent of men, whereof labour yet makes, in great part, the measure, it is plain, that [ii] men have agreed

to a disproportionate and unequal possession of the earth, [iv] they having, by a tacit and voluntary consent, found out, a way how a man may fairly possess more land than he himself can use the product of, by receiving in exchange for the overplus gold and silver, which may be hoarded up without injury to any one; these metals not spoiling or decaying in the hands of the possessor. This partage of things in an inequality of private possessions, [vi] men have made practicable out of the bounds of society, and without compact, only by putting a value on gold and silver, and [viii] tacitly agreeing in the use of money: [vii] for in governments, the laws regulate the right of property, and the possession of land is determined by positive constitutions.

(Numbers added to facilitate discussion)

To avoid confusion: I am not claiming that Locke anticipates Hume's account of money. I am only focused on their underlying views about or abstract conceptualization of the nature of convention. Here Locke explicitly contrasts the tacit agreement on the use of money with both promises ("compacts") as well as formal laws and positive constitutions. So, I claim Locke embraces (vii-viii). Second, Locke insists that the practice is socially useful ("men have made practicable"). Even though it precedes the existence of what he calls 'society', which is the effect of the explicit social contract. So, Locke adopts (v). In fact, the underlying point here is that whether it is useful (or not) is something discovered over time ("found out"). This utility keeps the convention in place for Locke. Third, the example of money is meant to illustrate what Hume will call a 'system of actions'. Money is an especially durable convention. For Locke, it precedes society and shapes the development of society. So, Locke accepts (iv).

It is important that appealing to 'common interest' is kosher on Locke's approach. Locke appeals to it at least twice (as an explanatory concept) in the *Second Treatise* (see sections 82 & 216). In both cases, Locke takes for granted that there is such a thing and that can be known by individuals (see especially section 82). So, Hume's methodological individualism in (i-iii) is consistent with Locke's philosophy.

That leaves (i-iii). These are not wholly explicit and disambiguated in Locke's *Second Treatise*, although consistent with the wider account of the *Second Treatise*. For, in Locke (i-iii) are generally treated in terms of consent, as we have also seen in *Essay* 2.28.10. In Locke consent is the glue that makes human associations of all kinds of sorts possible (including ones that are not conventions at all like voluntary associations or political life). On my view, Hume adopted Locke's account of conventions, and saw how he could use it against Locke's account of property.⁴

One may worry that my attribution of the Humean convention to Locke is a form of rational reconstruction that says more about the pre-occupations of

⁴Adam Smith, in turn, uses Hume's account of convention against Hume's account of property to make it more Lockean. (See Pack and Schliesser, "Smith's Humean Criticism").

the scholarly interpreter rather than Locke. Even if true, we cannot rule out the real historical possibility that Hume's account of Humean convention is modelled on material he found in Locke's writings.⁵ In what follows, I offer two arguments to attribute 'Humean convention' to the historical Locke himself. First, it can be shown that the parts of Locke's account of convention that makes it a 'Humean convention' is an improvement on quite visible lacunae in Pufendorf's account of convention that can be taken to be the target of the historical Locke. Second, Humean convention instantiates a quite familiar explanatory model.

3. Pufendorf and Locke

In his argument on Locke's account of the normativity of linguistic convention, Lenz (138–139) notes four key anticipations of Locke in Pufendorf:

- A. the characterisation of language as the great instrument of society,
- B. the anti-naturalist conventionalism and the argument that if language were naturally significant, there would be just one language
- C. the use of customary outward signs for inward meaning
- D. the tacit agreement that binds everyone to apply words in accordance with the received use (*receptus usus*).

(Socializing Minds, 138)

I accept Lenz's contention that Locke's account of the conventionality of language (especially at Essay 3.2.8 and 3.11.11) is inspired by Pufendorf's *De Officio hominis civis*, and that it would have evoked it to then contemporary readers.

This raises the question to what degree the eight features of the Humean template are already present in Pufendorf, who, after all, treats many institutions as conventional (Aarsleff, "Pufendorf and Condillac"). Here is the key passage quoted by Lenz:

But that the Nature of Discourse may be more thoroughly understood, it must first be known, that there is a two-fold Obligation respecting Discourse, whether exprest with the Voice, or written in Characters. The first is, that those who make use of the same Language, are obliged to apply such certain Words to such certain Things, according as Custom has made them to signify in each Language. For since neither any Words nor any particular Strokes

⁵In an accompanying note, Hume cites Hugo Grotius, *De jure belli ac pacis* (*On the Law of War and Peace*) 2.2.2, arts. 4–5 as being "the same with that hinted at and adopted" by Hume. But this passage only claims that property arose through tacit contract; it does not describe the Humean convention. The passage can also be found with discussion in Pufendorf's *Of the Law of Nature and Nations* 4.4.9 (297–298), which pinpoints some of the problems with scaling up Grotius' account. This material plausibly could have attracted Locke's (and Hume's!) attention to develop the Humean template. But my argument does not require it.

form'd into Letters can naturally denote any certain Thing (otherwise all Languages and Characters for writing would be the same; and hence the Use of the Tongue would be to no purpose if every Man might call every Thing by what Name he pleas'd;) it is absolutely necessary among those who speak the same Language, that there be a tacit Agreement among them, that this certain Thing shall be so, or so call'd, and not otherwise. So that unless an uniform Application of Words be agreed upon, 'twill be impossible for one Man to gather the Meaning of another from his Talk. By virtue then of this tacit Compact, every Man is bound in his common Discourse to apply his Words to that Sense, which agrees with the receiv'd Signification thereof in that Language: From whence also it follows, that albeit a Man's Sentiments may differ from what he expresses in Words, yet in the Affairs of Human Life he must be look'd upon as intending what he says, tho', as was said, perhaps his inward Meaning be the clear contrary. For since we cannot be inform'd of another's Mind otherwise than by outward Signs, all Use of Discourse would be to no purpose, if by mental Reservations, which any Man may form as he lists, it might be in his power to elude what he had declar'd by Signs usually accepted to that end.

(Pufendorf, *The Whole Duty of Man*, 120–121)

Pufendorf clearly treats convention in terms of an existing “custom”. While this is fully compatible with Humean convention, we are left without an account of how the custom could arise. That is to say while Pufendorf makes, as Lenz notes, the obligatory character of the convention quite clear, he leaves its origin quite mysterious. For, earlier, Pufendorf defines custom as “the frequent Repetition of Actions of the same kind does also incline the Will to do certain Things” (Pufendorf, *The Whole Duty of Man*, 34–35). But why linguistic practices get repeated in particular patterns is simply contingent now.

This absence of a mechanism of how tacit consent arises is very noticeable when Pufendorf explicitly treats of the practice:

Consent is usually made known by outward Signs, as, by Speaking, Writing, a Nod, or the like; tho' sometimes it may also be plainly intimated without any of them, according to the Nature of the thing and other Circumstances. So Silence in some Cases, and attended with some Circumstances, passes for a Sign expressing Consent. To this may be attributed those tacit Contracts, where we give not our formal Consent by the Signs generally made use of among Men; but the Nature of the Business, and other Circumstances make it fairly supposable. Thus frequently in the principal Contract, which is express, another is included which is tacit, the Nature of the Case so requiring: And it is usual, in most Covenants that are made, that some tacit Exceptions and imply'd Conditions must of necessity be understood

(*The Whole Duty of Man*, 111–112)

Pufendorf is undoubtedly correct that even in explicit covenants lots of tacit exceptions and implied conditions are presupposed and understood. (In a later passage he treats it as plainly resulting “from the Nature of the Thing” (*The Whole Duty of Man*, 127). That there is often a social scaffolding on which a formal contract is built is pretty much a shared insight of all critics

of Hobbes. But how we should think of the character and sources of this 'necessity' is left opaque in Pufendorf.

I do not mean to suggest that Pufendorf never offers a mechanism when he is discussing custom. So, for example, when it comes to price formation of prices in the market place (so-called vulgar prices (*The Whole Duty of Man*, 143–144)), there it is quite clear that the customary price itself reflects underlying costs and even disutility of production and procurement and also reflects supply/demand conditions in the market-place as well as what we would call 'inflation'. Interestingly enough, buying on credit is not treated as a pure equivalent for buying with coin, presumably not just in virtue of the delay, but also the implied risk. So, Pufendorf has a relatively clear account of the mechanism by which the vulgar price can change, but again, he has no account of how it can become customary.⁶

So if my reconstruction is correct, Locke recognized that Pufendorf's account of convention left too much unexplained. While I do not wish to defend the adequacy of the Humean template as an analysis of convention, the fact that Locke adopts it in non-trivial ways is no small advance over Pufendorf's analysis.

4. Aristotelian explanation

Let me close with the promised second argument that responds to the worry that attributing Humean convention as an account of convention to Locke is merely a rational reconstruction of a structuralist, abstract model by the modern scholar. For, one can treat the Humean template as an abstract model that presupposes familiarity with the four Aristotelian causes that make up a complete explanation of an entity: For, (vi) is the final cause(s) of a convention; (i) is the formal cause; (ii-v) are the efficient and material causes of the convention. I mix efficient and material causes here because jointly they tie the formal and final cause together in the workings of the convention. But it is natural to treat the features that rest on individuals as efficient and those features characterize the structure (iv-v) as the material cause that instantiate the formal cause (i).

If it is agreed that the explanatory unity of the Humean template presupposes Aristotelian causes then it is also no surprise that Locke does not offer an explicit analysis of the Humean template. His learned readers would have noticed it without him having to say so.

⁶In *Of the Law of Nature and Nations*, Pufendorf does have an account of what he calls "moral entities", including tacit contract, are derived from our powers. In various places he emphasizes the importance of custom and even a considerable amount of trial and error, but I have been unable to find a single section where he brings these together into the Humean template. It is, however, a very long work and I would be happy to be corrected on this. I thank Dario Perinetti for insisting on the significance of *Of the Law of Nature and Nations* to my present project.

Of course, Hume is a fierce critic of the legitimacy of the Aristotelian explanatory framework, especially formal and final causes (Schliesser “Hume’s Attack”). Hume, then, makes the template explicit precisely because a reader familiar with Hume’s philosophy cannot take for granted that Hume would draw on the non-efficient, Aristotelian causes. Whether the Humean template is legitimate from the perspective of Hume’s account of causation is, thus, an open question.

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