SOCIAL RULES AND PATTERNS OF BEHAVIOR

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Abstract:

In this paper I clarify the distinction between actions performed under a social rule and a mere pattern of behavior through an examination of two distinctive features of actions performed under a social rule. Developing an argument proposed by H.L.A. Hart in *The Concept of Law*, I first argue that, where a social rule exists, there nonconformity/conformity to the pattern of behavior set down in the rule count as good reasons for criticism/commendation of actions covered by the rule. Secondly I argue that, where a social rule exists, nonconformity/conformity to the pattern set down in the rule must be taken account of (at the risk of self-contradiction) in judging actions covered by the rule commendable or subject to criticism. This in turn means that, where a social rule exists, there can be no genuine exceptions to the rule because the notion of a genuine exception to a social rule makes no sense.
Social Rules and Patterns of Behavior

The question whether there is a significant distinction to be drawn between actions performed under a social rule and a mere pattern of behavior is a question of the highest importance for social and political philosophy and for the philosophy of the social sciences. In this paper I shall argue in support of this distinction by describing two important characteristics of situations governed by social rules that are not characteristics of a mere pattern of behavior. The first section is an examination and development of H.L.A. Hart's argument in support of this distinction in The Concept of Law. In the second section I examine a second characteristic of actions performed under a social rule and offer a thesis regarding such actions that is considerably stronger than the thesis which Hart defends.

Section One: Hart's Argument

H.L.A. Hart presents his arguments supporting the distinction between actions performed under a social rule and a mere pattern of behavior or, as he calls it, "a habit," as part of his critique of John Austin's theory of law.¹ There are, Hart tells us, "three salient differences" between actions performed under a social rule and a mere pattern of behavior. I shall examine each of Hart's differences in turn.

The first difference which Hart speaks of concerns the occurrence, where a social rule exists, of criticism of

¹Hart uses the term "habit" in his treatment of this question because it is the term which Austin used. For our present purposes, however, the term "habit" is not a happy one. As Hart himself notes, the term "habit" does not apply conveniently to the actions of groups of persons. "Habit" also has important psychological connotations which are of no significance to the matter at hand. On these points, see H.L.A. Hart, The Concept of Law (Oxford, Clarendon Press, 1961), pp. 51, 56, 85f. For these reasons I shall employ the more neutral expression, "pattern of behavior," in this paper.
behavior which does not conform to the rule and of pressure for actions which do conform. Hart writes: "First, for the group to have a habit it is enough that their behavior in fact converges... But such general convergence or even identity of behavior is not enough to constitute the existence of a rule requiring that behavior: where there is such a rule deviations are generally regarded as lapses or faults open to criticism, and threatened deviations meet with pressure for conformity, though the forms of criticism and pressure differ with different types of rule." (p.54)\(^2\) Hart's point is that, if nonconforming acts did not meet with criticism, then we would not say that there was a social rule in existence in that situation. Hart is surely right in this; but two further comments need to be added.

First, Hart's argument does not support the claim that such criticism and pressure are distinctive of social rules, but only that they are a necessary condition for the existence of a social rule. Indeed it is quite possible for there to be a pattern of behavior which does not involve a social rule, but which is accompanied by criticism of nonconforming behavior and pressure to conform. Let us take Hart's own example of a mere pattern of behavior: a certain group of people regularly go to the movies on Saturday nights (p.54). Suppose that some members of the group choose to stay home on a certain Saturday to sit on their porches and watch the sun set instead of going to the movies. They might well receive criticism from other members of the group (or from other persons who had simply observed their regular pattern of going to the movies)--for being inconsistent, perhaps, or for being unsocial, or for simply missing a good movie or a pleasant evening with the group. The mere fact that criticism and pressure occur is not a sufficient reason for us to conclude that a social rule exists. It is not a distinctive feature of social rules.

Secondly, by focusing exclusively on criticism of nonconforming actions and pressure to conform, Hart passes over other important types of behavior that are characteristic of situations in which there are social rules. He passes over, for example, the commendation of conforming behavior, especially in those who are just learning, and also acts of self-criticism and self-commendation. All of these are characteristic features of situations in which

\(^2\)Unless otherwise indicated, all page references are to H.L.A. Hart, The Concept of Law.
there are social rules. As I have said, however, none of these behaviors—nor the set of all of them together—constitutes a distinctive feature of a situation in which there are social rules. They can be found as parts of mere patterns of behavior as well. Henceforth in this paper I shall employ the rubric "criticism and commendation" to indicate the whole range of these behaviors, both positive and negative, that I have spoken of here.

Hart's first difference does not provide us with a distinguishing feature of actions performed under a social rule. But his second "salient difference" is just what he says it is. He argues that actions performed under a social rule differ from a mere pattern of behavior in that, where a social rule exists, nonconformity counts in and of itself as a good reason for criticism and conformity counts in and of itself as a good reason for commendation. He writes: "Secondly, where there are such rules, not only is such criticism in fact made, but deviation from the standard is generally accepted as a good reason for making it." (p.54, emphasis added)

The distinction does not lie in the fact that criticism and commendation occur, as we have seen. It lies rather in the characteristic justification or legitimation of criticism and commendation where a social rule exists. For where no social rule exists, the mere fact of nonconformity/conformity is insufficient to justify criticism/commendation. But where a social rule exists, nonconformity/conformity are sufficient in and of themselves, i.e., count as good reasons, in the justification of criticism/commendation. Hart does not expand on this; but it will be helpful to look at some examples to make his point clear.

Using Hart's example of a social rule (p.54), let us suppose that a rule exists in a particular community to the effect that the male head is to be bared upon one's entering a church. If Jones enters a church without baring his head, the mere fact that he has failed to conform to the pattern set down in the rule is sufficient reason for criticising his action. No other premises are needed for the criticism to be reasonable. It can be completely explained by saying: "That is the rule; that is what we do here."

Similarly if Smith takes his son to church and the boy remembers to remove his hat upon entering, it is fully reasonable for Smith to commend him for the action. It is reasonable because there is a rule and the boy's action was in conformity with the pattern set down in it. No other information is needed for us to know that Smith's
commendation of his son was justified.

On the other hand, if we suppose that Smith chooses not to go to the movies on Saturday night, though he is one of a group of people who regularly go on Saturday nights, then if Jones criticises him and Smith asks Jones why, it is not sufficient for Jones to respond simply that "everyone in the group always goes." For this response to constitute a good reason, Jones must be suppressing some additional premise. He may be taking it for granted, for example, that it is very satisfying to do what everyone in the group regularly does or he may believe that, when everyone in the group judges some activity enjoyable and worth doing, then that is certainly the best thing one can do. With some such premise behind his answer, Jones's response would at least make sense. (It would also be necessary, of course, for Jones's premises to be true. But our concern here is with what kinds of reasons make sense, i.e., count as good reasons.)

Without a social rule to appeal to, Jones's effort to justify his criticism of Smith simply on the basis of the latter's failure to follow the pattern does not make sense. Nonconformity/conformity do not count in and of themselves as good reasons for criticism/commendation unless a social rule exists. Here we have a clear and important difference between actions performed under a social rule and a mere pattern of behavior.3

3In a footnote at this point Hart refers the reader to Winch, The Idea of a Social Science (London, Routledge and Kegan Paul, 1958), pp. 57-65 and 84-94, and to Piddington, "Malinowski's Theory of Needs" in Firth, Man and Culture (London, Routledge and Kegan Paul, 1957). Both of these authors stress the importance of criticism when a social rule exists and point to the possibility of making a mistake. But neither points explicitly, as Hart does, to the special kind of good reasons for criticism (and commendation) that is available when a social rule exists. Max Black's excellent study, "The Analysis of Rules," in Models and Metaphors (Ithaca, New York, Cornell University Press, 1962), offers an important analysis of the "regulation sense" of rule, a category which closely parallels the category of "social rule" being examined in this paper. But when Black seeks the distinctive characteristics of this type of rule, his attention too is focused on the element of pressure for conformity and on the possibility of making a mistake. The treatment of this question which most closely parallels Hart in focusing on what count as good
Hart's third difference is concerned with what he calls the "internal aspect" of a social rule: "In order that there should be...a habit, no member of the group need in any way think of the general behavior, or even know that the behavior in question is general... By contrast, if a social rule is to exist some at least must look upon the behavior in question as a general standard to be followed by the group as a whole. A social rule has an 'internal aspect' in addition to the external aspect that it shares with a social habit and which consists in the regular uniform behavior which an observer could record." (p.55) An illustration of this "internal aspect" is given by Hart in this passage about a chess player: "Each (player) not only moves the Queen in a certain way himself, but 'has views' about the propriety of all moving of the Queen in that way... (views which are) manifested in the criticism of others and demands for conformity...and in acknowledgement of the legitimacy of such criticisms and demands when received from others." (p.56)

Since Hart speaks of this aspect of a social rule as something "internal" and contrasts it with "behavior which an observor could record," it might seem that his point concerns characteristic feelings which are had by those who perform actions under a social rule. But Hart makes it clear that this is not what he has in mind:

The internal aspect of rules is often misinterpreted as a mere matter of "feelings" in contrast with externally observable physical behavior. No doubt where reasons for criticism and commendation when a social rule exists is to be found in John Rawls, "Two Concepts of Rules," The Philosophical Review, LXIV (1955), pp. 3-32. Rawls' position is in agreement with Hart's position as I have described it and Rawls offers arguments very similar to Hart's in supporting this much of his own position. But Rawls goes well beyond Hart, arguing that, where a social rule exists, there only nonconformity/conformity to the pattern set down in the rule, and nothing else, can count as good reasons for criticism/commendation. On this point see footnote 9 below. A valuable examination of both Hart's and Rawls' analyses of social rules is Thomas Morawetz, "The Concept of a Practice," Philosophical Studies, XXIV (1973), pp. 209-226. Morawetz examines the differences between games like chess and baseball, which both authors employ as examples of systems of social rules, and such systems of social rules as legal systems and languages.
rules are generally accepted by a social group and generally supported by social criticism and pressure for conformity, individuals may often have psychological experiences analogous to those of restriction or compulsion. When they say they "feel bound" to behave in certain ways they may indeed refer to these experiences. But such feelings are neither necessary nor sufficient for the existence of "binding" rules. There is no contradiction in saying that people accept certain rules but experience no such feelings of compulsion. (p.56)

If the "internal aspect" does not refer to persons' feelings, then what does Hart have in mind? In his final comment on the third difference, Hart says: "What is necessary is that there should be a critical reflective attitude to certain patterns of behavior as a common standard, and that this should display itself in criticism (including self-criticism), demands for conformity and in acknowledgements that such criticism and demands are justified." (p.56)4 What Hart is doing here, I believe, is elaborating on what it means to say that something counts as a good reason within a particular community of reasoners. He wants to make it clear that, for something to count as a good reason within a particular group, it must function as such in the actual reasoning of the members of the group. For us to say that nonconformity/conformity to the pattern set down in a social rule count as good reasons for criticism/commendation, it must be the case that the members of the group concerned actually do justify criticism/commendation in terms of nonconformity/conformity and that they accept such justifications as adequate when they are applied to themselves.5

4Hart notes here, as he does not elsewhere, that the pattern of criticism associated with a social rule includes self-criticism. Similarly the pattern of commendation associated with a social rule, which Hart does not mention explicitly anywhere, includes self-commendation.

5As Hart points out (p.55), however, it is not possible to specify ahead of time or in the form of a general rule just how many members of the group must act in these ways or how often or how long they must do so for us to be able to say that the group acts in this way. But we do not need to be able to specify such things for us to be able to say that, for something to count as a good reason, the members of the group must employ it as such in their reasonings. The ambiguity here is the ambiguity of the notion of a pattern of activity on the part of a group (namely, in this case, the activity of counting something as a good reason), not an ambiguity of the concept of social rule.
If this interpretation is correct, then Hart's third point does not give us an additional difference between actions performed under a social rule and a mere pattern of behavior. In fact Hart himself says: "The third feature. . . is implicit in what has already been said" (p.55). But this elaboration on the second point is still very important. For the thrust of Hart's comments on the "internal aspect" of social rules is that we cannot speak about nonconformity/conformity counting as good reasons without implying something about the judgments and other actions of those who so count them.6

Hart's own description of these judgments and actions, however, is not very detailed. The comments already quoted fairly summarize his positive description of the judgments and actions involved in the internal aspect of a social rule.7

6 At the same time that Hart introduces the terminology of the "internal aspect" of social rules, he also begins to speak of a social rule as being looked upon as a common or general standard of behavior. The notion of a standard of behavior might seem to add something to Hart's description of social rules that is not already implied in what was examined above regarding nonconformity/conformity counting as good reasons for criticism/commendation. But in fact Hart uses this expression throughout The Concept of Law simply as another way of saying that, where there is a social rule, there nonconformity/conformity are counted as good reasons for criticism/commendation and that certain kinds of judgments and actions of other sorts are implied in those who so count them.

7 Hart also attempts to describe the internal aspect negatively by explaining the limits of the "external aspect," that is, of what is available, as he puts it in another section (pp.79-88), from the "external point of view." But his terminology in these sections is confusing. It seems that we must take "external" to mean "outside the group of those who count nonconformity/conformity as good reasons for criticism/commendation (concerning some specific form of behavior)." Thus "internal" would refer to the position of one who is a member of such a group. This would at least explain why someone whose perspective is "external" cannot "give any account of the manner in which the members of the group who accept the rules view their own regular behavior" (p.87), i.e., because they count something as good reasons which the person taking the "external" point of view does not. In fact, however, Hart overstates his case here. For the external observer can give some account of what he observes; and he can in fact explain what he observes by
What Hart leaves us with on this particular point is more a challenge to further study than a careful analysis of what is involved. Can we learn what sorts of judgments and actions of other sorts are implied when someone counts something as a good reason and specifically when nonconformity/conformity are counted as good reasons? What is involved when a person accepts a certain pattern of behavior as a social rule? I shall not attempt to answer these questions in this paper; for there is a second "salient difference" between actions performed under a social rule and a mere pattern of behavior which I wish to examine. But in bringing these questions to light Hart has laid open for us an important field for further study.

There are weaknesses, as I have indicated, in Hart's argument for a distinction between actions performed under a social rule and a mere pattern of behavior. Hart does not really provide us with three salient differences between them, as he claims, but only with one. (The first is merely a necessary condition; the third, though important, is only an elaboration of the second.) In addition his focus on criticism and pressure, though perhaps understandable in a study specifically concerned with legal rules, is too narrow for an analysis of social rules generally. We also need to take account of the positive judgments, i.e., commendation, which also attend actions performed under social rules. Nevertheless, with his second difference Hart has accomplished something of great importance. For he has demonstrated that there is a significant difference between actions performed under a social rule and a mere pattern of behavior.8

noting that the judgments and other actions implied in counting nonconformity/conformity as good reasons are actually to be found in those who are members of the group. The point Hart is trying to make is rather that the external observer cannot give the same or same sort of account as those who accept the rule. This is what he must mean when he says that one who is not a member of the group that accepts a certain social rule can only record "the external aspect which (their behavior) shares with a social habit" (p.55).

8A note on terminology seems in order. From one point of view it might be more appropriate to speak of "a system of social rules" rather than of "a social rule." For almost every social rule must deal with a range of circumstances and must often deal with different sets of circumstances within that range in different ways. It may, for example,
Section Two: A Second Feature of Social Rules

The central proposition of Hart's argument, which I have just examined, is that where a social rule exists, nonconformity/conformity to the pattern set down in the rule count in and of themselves, i.e., as good reasons, as sufficient justification, for criticism/commendation of the actions concerned. This proposition I shall refer to henceforth as the Basic Thesis about actions performed under a social rule. In this section I shall examine a second feature of actions performed under a social rule and propose an additional thesis about them.

be part of the social rule that the male head is to be bared on entering a church; that, if there are serious medical reasons, the head should not be uncovered. It would seem at least as appropriate to speak of this situation as involving a system of social rules as to speak of it as involving simply a social rule. John Rawls has handled this problem of terminology in "Two Concepts of Rules" by means of the term "practice," which is taken to refer to a closely interrelated set of rules, together with a pattern of behavior in conformity with them. In this paper, however, I shall continue to follow Hart's usage of the--admittedly somewhat oversimple--expression, "a social rule."

Approaching the terminology problem from another angle, it is important to note that Hart uses the expression, "social rule," to refer generally to all sorts of social norms. This has led to a serious misreading of Hart's theory of law in Ronald Dworkin's well known critique of Hart, "The Model of Rules," University of Chicago Law Review, XXXV (1967), reprinted as "Is Law a System of Rules?" in R. Summers, Essays in Legal Philosophy (Oxford University Press, 1968). Proposing a much narrower notion of rule than Hart employs, Dworkin contrasts rules with social norms of another sort, which he calls "principles." He then criticizes Hart for speaking only of rules and neglecting the role of principles within a legal system. But Dworkin's "principles" are certainly included under Hart's larger notion of social rules. A critique of Dworkin and a useful look at several of the subdivisions of the general category which Hart calls simply "social rules" will be found in Joseph Raz, "Legal Principles and the Limits of Law," The Yale Law Journal, LXXXI (1972), pp. 823-854.
To return to a now familiar example, let us suppose that Jones enters a church with his hat on even though there is a social rule in his community that the male head is to be bared on entering a church. His failure to conform is sufficient reason for him to be criticized and for him to accept the criticism as justified. This much we have already seen.

But now let us suppose that Jones explains his action to us. He tells us that he has kept his hat on because he is fearful of catching a head cold in the drafty building. We ask him if he is weighing this concern against the fact that his action fails to conform to the rule and is therefore to be judged negatively. If he answers that protecting his health has been his only concern in deliberating about his action, then we would be right in criticizing his deliberations for failing to take account of good reasons, provided by the social rule, for baring his head. (I am assuming that the fullest statement of the rule in this case would not include fear of a head cold among the legitimate excusing conditions for keeping one's head covered.) The only defense available to Jones would be for him to inform us that we were mistaken in thinking that he was one of those who accept that particular social rule. If he does accept the rule, then his failure to take account of the criticism or commendation of his action which derive from the rule would be unreasonable. Jones cannot claim, without contradicting himself, both that he accepts the social rule and that he looks upon the criticism/commendation based on it with indifference.

The Basic Thesis about actions done under a social rule speaks of the sufficiency of nonconformity/conformity as reasons for criticism/commendation. The thesis which I am proposing here, which I shall call the Stronger Thesis, argues that nonconformity/conformity are necessary, that is, must be taken account of, as good reasons for those who accept a social rule. What the Basic Thesis tells us is that, where a social rule exists, it is reasonable to take account of nonconformity/conformity in judging whether actions covered by the rule are commendable or subject to criticism. (This is in contrast with an instance of a mere pattern of behavior where taking account of simple conformity or nonconformity to the pattern would be unreasonable.) What the Stronger Thesis argues is that, where a social rule exists, it is not only reasonable to take account of nonconformity/conformity, but it is unreasonable not to take account of them in judging actions covered by the rule. To fail to take account of them is itself a matter for criticism.

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The Stronger Thesis does not say that no other bases for criticism/commendation of actions covered by the rule are possible or that it would be unreasonable to take such other bases of judgment into account. The Stronger Thesis claims only that it is unreasonable, that it contradicts what we mean when we say that a community has a social rule, to fail to take nonconformity/conformity into account in judging actions covered by the rule commendable or subject to criticism. Thus according to the Stronger Thesis, Jones is not necessarily acting unreasonably if he takes the risk of a head cold into account in his deliberations, provided that he also takes account of the fact that the rule requires

At several points in The Concept of Law Hart argues in ways which look forward to the Stronger Thesis developed here. But he himself nowhere suggests a distinction between the point made in the Basic Thesis and the point made in the Stronger Thesis. Even in his treatment of the "third difference," where Hart speaks of those accepting the rule "having views" about the importance of nonconformity/conformity to the pattern set down in the rule, his approach accords much more closely with the claim that, where a social rule exists, nonconformity/conformity are sufficient as good reasons than with the claim that they are, in an important sense, necessary. It is likely that Hart would agree with the Stronger Thesis; but he does not propose what it claims in any explicit manner.

 Rawls too says things in "Two Concepts of Rules" that look forward to the Stronger Thesis, but like Hart he does not propose it in any explicit manner or note its difference from the Basic Thesis. But since Rawls defends a thesis about actions performed under social rules which seems to be even stronger than what I have called the Stronger Thesis, it seems certain that Rawls would accept the Stronger Thesis. For Rawls seems to be arguing that, where a social rule exists, there only nonconformity/conformity to the pattern set down in the rule can function as good reasons for criticism/commendation. That is, it is unreasonable to take account of anything else. This seems to be the import of Rawls' arguments regarding punishment and promises in "Two Concepts of Rules," and there are several explicit statements to this effect. For example, towards the end of the article Rawls says, "The point I have been making. . .is simply that where a form of action is specified by a practice there is no justification possible of a particular action of a particular person save by reference to the practice." (p.32) But whatever additional theses Rawls might be defending, it is clear from this statement that he would support the Stronger Thesis which I am proposing.
hats to be doffed. But if in his deliberations about how to act or in his justifications of his action to others he should take no account of what the rule requires, i.e., if he failed to count nonconformity/conformity as good reasons for criticism/commendation of his action, then he would be acting unreasonably.

It follows from this that a person could deliberately fail to conform to the pattern set down in a social rule which he and his community accept while still acting reasonably and consistently according to the Stronger Thesis. For it is not essential, according to the Stronger Thesis, that the person judge that nonconformity/conformity have greater weight than other sorts of reasons not deriving from the rule. What is essential is that nonconformity/conformity be taken account of, be counted as significant criteria in the process of judging the action commendable or subject to criticism. (Since the Stronger Thesis implies the Basic Thesis, any action which is reasonable and consistent according to the Stronger Thesis would also be reasonable and consistent according to the Basic Thesis.)

This Stronger Thesis not only tells us something important about actions done under a social rule; it also points to a second difference between actions done under a social rule and a mere pattern of behavior. For it is clear that we have no conceptual difficulty in speaking of a situation as an instance of a pattern of behavior even when the behavior in question is not universally in evidence in the situation. Exceptions to the pattern, i.e., instances of behavior not in conformity with the pattern, are perfectly consistent with the idea of a pattern, provided only that they are not too numerous. But with actions done under a social rule, things are different. In this situation, there is no room for a genuine exception.

If the instances of nonconforming behavior are fairly numerous, of course, then we are faced with the difficult question of determining whether or not the situation is properly considered an instance of a pattern of behavior at all. But, to use the example used earlier, not every member of the group has to go to the movies on every Saturday night for the group to have a pattern of behavior of going to the movies on Saturday nights. So long as the exceptions, i.e., the instances of nonconforming behavior, are not excessively numerous, then there is no contradiction in our speaking of a situation characterized by exceptions as an instance of a pattern of behavior.
In order to see this, we need to ask first what a genuine exception to a social rule would be.

Since social rules provide for nonconforming acts, making them subject to criticism, it is clear that the mere fact of nonconformity cannot constitute an action as a genuine exception to the rule. Moreover, the situations which we commonly speak of as exceptions to social rules are not genuine exceptions to the rules themselves, but are only exceptions to the simpler statements of the rules that we formulate to guide ourselves in the cases that we encounter the most frequently. Full statements of the social rules involved would indicate how these situations are to be dealt with. They are exceptional in the sense of unusual; but they are not genuine exceptions to the rules because the rules, when fully stated, can be seen to cover them.\(^\text{11}\)

For a situation to be a genuine exception to a social rule it would have to fall outside what the rule provides for while still being the sort of situation which the rule covers. For if the situation was not of the sort covered by the rule, then the rule would be totally indifferent to it. The only kind of situation which could count as a genuine exception to a social rule, it would seem, would be one which was covered by the rule but which was not to be judged commendable or subject to criticism in the light of it, i.e., on the basis of its conformity or nonconformity to the pattern set down in the rule. But we have just seen, in the foregoing arguments for the Stronger Thesis, that it is a self-contradictory position to claim to accept a social rule while taking no account of nonconformity/conformity to the pattern set down in it as bases of criticism/commendation. Thus, for those who accept the rule, there can be no genuine exceptions. (For those who do not accept the rule,\(^\text{11}\) Admittedly, of course, to say that all one needs in such situations is a "full statement of the rule" is to say a lot. Such "full statements" are rarely available. Indeed, the old saw about the "exception which proves the rule" probably refers to the fact that a social rule really proves its worth to us when it enables us to resolve in a fairly clear manner not only the ordinary, day-to-day cases, but the extraordinary and unusual sets of circumstances that arise as well. But regardless of the difficulties involved in determining what would be contained in a full statement of the rule, still for every set of circumstances that might arise, either the rule covers those circumstances or it does not or we don't yet know what to say (about whether it covers them or not). In none of these cases is there room for what we might rightly call a genuine exception to the rule.
the rule yields nothing in any case.) For those who accept a rule, either a particular action is not covered by the rule or else it is either commendable or subject to criticism by reason of its conformity or nonconformity with what the rule prescribes. This is what it means to say that, where a social rule exists, there can be no genuine exceptions to the rule. There is no significant notion of exception—other than the exceptions which are simply unusual cases not covered in the simplest statements of the rule—where a social rule exists.

Here then we have a second important point of difference between actions done under a social rule and a mere pattern of behavior. For it is altogether conceivable that a situation might be an instance of a pattern of behavior and at the same time contain genuine exceptions to that pattern. But it is not possible for there to be genuine exceptions among actions performed under a social rule. Every action which is covered by the social rule must be accounted either commendable or subject to criticism in terms of its conformity or nonconformity to the pattern set down in the rule. Any other situation would be inconsistent with what we mean by a social rule.

Conclusion

My aim in these pages has been to clarify the distinction between actions performed under a social rule and a mere pattern of behavior through a careful study of two distinctive features of actions performed under a social rule. I have expressed these two features in the Basic Thesis and Stronger Thesis. The Basic Thesis, proposed and defended by H.L.A. Hart and further clarified here, holds that, where a social rule exists, nonconformity and conformity to the pattern of behavior set down in the rule count in and of themselves as good reasons for criticism and commendation of actions covered by the rule. That is, it is reasonable to take account of conformity and nonconformity as reasons for commendation and criticism. The Stronger Thesis holds that, where a social rule exists, nonconformity and conformity to the pattern set down in the rule must be taken account of among the reasons for criticism and commendation of actions covered by the rule. That is, it is unreasonable not to take account of them. This in turn means that where a social rule exists there can be no genuine exceptions to the rule.

There is much work yet to be done on this matter, particularly in the analysis of what constitutes acceptance of a
social rule, i.e., Hart's "internal aspect," the judgments and actions of other sorts that are implied in counting nonconformity/conformity as good reasons for criticism/commendation. But each step in clarifying the questions involved and each effort to distinguish one feature of our experience from another takes us that much closer to a full and clear understanding of what we mean by a social rule and of the proper role of such rules in our lives.

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