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ON NORMS. AN APPLICATION OF BRENNAN'S AND BICCHIERI'S IDEAS TO BAD CITIZENSHIP AND CIVIL DISOBEDIENCE

MARCO ANTONIO JOVEN-ROMERO*

ABSTRACT

In this paper I analyze the recent definitions of *norm* given by Brennan, Eriksson, Goodin, and Southwood in *Explaining Norms* (2013)¹ and by Cristina Bicchieri in *The Grammar of Society* (2006).² I illustrate the analysis with bad citizenship and civil disobedience phenomena, focusing on some particular cases: abortion, cyclist urban mobility, marijuana legalization, management of cultural and linguistic diversity, and squatter movements.

In section 1, I introduce both views of *norms*, the methodology I use and the hypothesis I defend. In section 2, Norms in Brennan, Eriksson, Goodin, and Southwood's '*Explaining Norms*' (2013), I look at the agentialist definition of *norm* based on accountability. Depending on different forms of accountability and sanctions, the authors make a difference between individual moral norms, social non-formal norms, and formal norms. I pay special attention to processes of norm emergence, persistence, change, unravelling and breaching, and to bad norms. In section 3, Norms in Bicchieri's '*The Grammar of Society*' (2006), I analyze the agentialist definition of *norm* based on her notion of *expectations*, and I relate it to statistical regularities. Depending on these *expectations*, Bicchieri makes a difference between social norms, descriptive norms, and conventions and she considers a modular way of norm activation. In section 3.1. I study the modular way of norm activation given by Bicchieri, in section 3.2 I deepen in norm formation and in section 3.3 I mention Bicchieri's ideas about civil disobedience.

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1. See GEOFFREY BRENNAN ET AL., *EXPLAINING NORMS* 1–4 (2013).

2. CRISTINA BICCHIERI, *THE GRAMMAR OF SOCIETY: THE NATURE AND DYNAMICS OF SOCIAL NORMS* ix (2006).

In the conclusions section I sum up the findings and I defend that a broad integrative definition of *norm* including both *accountability* -Brennan et al.- and *expected statistical regularity* -Bicchieri- is necessary in order to work with norms and to apply them to bad citizenship and civil disobedience phenomena.

1. INTRODUCTION

Ultimately, some fascinating books on *norms* have been published. Two of them are: Cristina Bicchieri's *The Grammar of Society* (2006)³ and Brennan, Ekisson, Goodin, and Southwood's *Explaining Norms* (2013)⁴

On the one hand, *The Grammar of Society* offers an agentialist, reductive view of norms; on the other hand, *Explaining Norms* offers an agentialist but non-reductive view of norms. The former provides a definition of norm based on expectations – the agent expects some behaviors and he is expected to behave in a particular way by the group – while the latter gives a definition of norm based on accountability – evaluations and sanctions. Moreover, *Explaining Norms* shows a broader concept of norm including not only social norms but also formal norms (e.g. laws) and moral norms. This is useful in order to apply these philosophical ideas to contemporary social issues.

Here, a comparative analysis of both approaches is presented, showing their similarities and differences, as far as both are agentialist but they disagree in norm definition. I apply the results to the analysis of bad citizenship and civil disobedience. From Bicchieri, bad citizenship can be obtained when expectations are not complied with,⁵ although we must take into account that decisions are conditioned by both dispositional and situational facts. From Brennan's et al. point of view, bad citizenship emerges when particulars are negatively accounted because of their norm violation.⁶ Some agents consider the established norm a bad norm and they manage to change it just by breaching it. This conscientious objection usually has some common characteristics: it may have a cost on the agent and it must be advertised.

I consider that a few agents initially find a moral motivation to act differently from the established social or legal norm. This new way of acting is not compatible with the instituted one. Quickly, some other agents feel similar attitudes because of a latent feeling, or practical reasons, and they all constitute a new group. We can start considering the initial moral motivation as a norm of this fresh community. At this step, the new norm creates both new common expectations and new criteria for accountability. Emergence and spreading may be caused by different processes: formal, if we find them institutional designed, or informal. Two of these processes are: free-flowing cascades and follow-the-leader actions. Then, a confrontation between the established community and the new one is likely to happen. If the process succeeds, norm unraveling usually meets some common characteristics: as we find more violators, we find fewer sanctions and less severity in them; normative principles are questioned and more and more people adopt the new behavior. It

3. *Id.*

4. See BRENNAN ET AL., *supra* note 1.

5. BICCHIERI, *supra* note 2, at ix–x.

6. See generally BRENNAN ET AL., *supra* note 1, at 234–44.

must be noted that when emerging and changing a norm, we may find incompatibilities of status: while a new norm may be followed as a social norm, it may be prohibited by formal institutions and codes. Also, norms may incorporate a social meaning, establishing new social roles and identities.

Based on the above analysis, I finally defend an integrative view of norms that incorporates both accountability and expectations. Brennan et al. assume that the concept of norm has three different definitions⁷: a statistical one⁸, norm as a socially accepted rule⁹, or norm as an objective universal rule, by pro-normativity philosophers. This last definition is quite polemic,¹⁰ but it is not the one I am interested here. I will go into the statistical and the accepted rule definitions, finally suggesting a broader concept of norm that includes both senses can explain better the processes of norm creation and change, and consequently, civil disobedience and bad citizenship. This view would join the two popular meanings of the concept of norm: statistical regularity—more specifically, expected statistical regularity – and accountability.

I illustrate the previous ideas using some recurrent examples: abortion, cyclist urban mobility, legalization of marijuana, management of cultural and linguistic diversity, and squatter movements.

2. NORMS IN BRENNAN, ERIKSSON, GOODIN, AND SOUTHWOOD'S *EXPLAINING NORMS* (2013)

Explaining Norms shows a broad concept of norm, including formal norms, social norms and moral norms.¹¹ Generally speaking, this book promotes an agentialist but non-reductive definition of norm. Norms are autonomous entities created and followed by individuals and based on *accountability*.¹² Thus, norms have a normative element (accountability) and a socio-empirical element (general norm knowledge). This definition of norm tries to solve the tension between a rational, individualistic definition,¹³ that defines the norm in terms of purposes and particular beliefs, and a constructivist approach, that gives the norm an autonomous nature.

It should be noted that agents may have different purposes. That makes a difference between coordination, when peoples' interests are aligned, and cooperation, when they are not. On the other hand, even if agents individually have the same goal, working as a group may demand them to change their goals and to act differently.

7. BRENNAN ET AL., *supra* note 1, at 7.

8. BRENNAN ET AL., *supra* note 1, at 2.

9. BRENNAN ET AL., *supra* note 1, at 2.

10. STEPHEN TURNER, *EXPLAINING THE NORMATIVE* 193 (2010).

11. *See generally* BRENNAN ET AL., *supra* note 1, at 40–56, 57–92.

12. BRENNAN ET AL., *supra* note 1, at 260.

13. BICCHIERI, *supra* note 2, at 3.

Rationalistic approaches explain why norms emerge in terms of agents' purposes and beneficial outcomes, but they cannot explain how norms emerge and persist. Specific cases must be analyzed in order to get it. New purposes and beneficial outcomes are reasons for new norms emerging and establishment, and thus for oppositions and civil disobedience: thinking about abortion, their defenders usually argue for psychological benefits of pregnant women and the problems of having unwanted children.

Norms also work as signals and symbols, being an important part of social roles and cultures. Hence, March and Olsen note a difference between *the logic of consequences*, depending on convenience and purposes, and *the logic of appropriateness*, related to roles, culture and identity.¹⁴ From a constructivist approach, people adopt social roles and cultures that carry a list of norms: "[a]ll the person has to do is interpret the role and act according to its 'logic of appropriateness'".¹⁵ Of course agents may occupy several roles even at the same time and these roles can also be explained as a pattern of expectations. But generally speaking, norms signal and define who belongs to a culture. For the social constructivist, the point when analyzing norms is not purposes but identities.¹⁶ For Brennan et al., this approach is useful to explain how norms emerge, spread, and even persist, but it is not useful to explain why norms emerge. In civil disobedience, groups that try to change the norm usually adopt some new roles and adhere to a subculture:¹⁷ defenders of marijuana legalization are likely to listen to reggae music and have Rastafarian aesthetics, while squatters can have defiant punk aesthetics. Roles and cultures may work as action schemata and they promote in-group cohesion. On the other hand, roles and identities may remain even if the related norms change.

Different norms suppose different kinds of sanctions. In particular, formal norms correspond to formal sanctions, while social norms correspond to social, non-formal sanctions (eg. gossip) and moral norms correspond to individual, internal sanctions (eg. feeling guilty). To give some examples, smoking marijuana usually implies a formal norm violation and its corresponding formal sanction, and, depending on the group, it also implies a social non-

14. James G. March & John P. Olsen, *The Logic of Appropriateness*, in THE OXFORD HANDBOOK OF PUBLIC POLICY 689, 703 (Michael Moran et. al. eds., 2006).

15. BRENNAN ET AL., *supra* note 1, at 160.

16. BRENNAN ET AL., *supra* note 1, at 8. It must be noted that supporters of the rationalistic approach usually argue that the creation of roles, cultures, and the concept of identity itself, find their reason in common beneficial outcomes. Carmen Wunderlich, *Theoretical Approaches to Norm Dynamics*, in NORM DYNAMICS IN MULTILATERAL ARMS CONTROL 20, 21 (Harald Muller & Carmen Wunderlich eds., 2013). This is controversial, as some role habits seem to be far from beneficial, although role differences usually depend on different interests and benefit views. *Id.*

17. MIKE BRAKE, COMPARATIVE YOUTH CULTURE: THE SOCIOLOGY OF YOUTH CULTURES AND YOUTH SUBCULTURES IN AMERICA, BRITAIN AND CANADA, at 1923 (1985).

formal sanction. To kill a child generally implies a formal sanction, a social non-formal sanction and an internal sanction.

Norms may have a coordination or a cooperation function, but they cannot be defined in these terms. For these authors, we can cooperate and coordinate without norms, and norms may also serve other functions, like role creation. One may argue that creation of roles and identities is one way of enhancing coordination and cooperation, but it is easy to find examples of norms that currently do not promote either cooperation or coordination. This discussion is quite interesting to explain civil disobedience. When thinking about squatter movement and marijuana legalization, their defenders usually argue they cannot understand the existence of norms that are not related to coordination or cooperation: a marijuana smoker will think he is not harming anyone if he smokes at home, he will say that marijuana is not as dangerous as other legal substances and its legalization may suppose a better control of drug dealing.¹⁸ Similarly, a squatter will argue that forbidding occupation of empty buildings is against cooperation or coordination, and it enhances homelessness.¹⁹ In short, it seems that some norms that might have been created for mutually beneficial outcomes in a specific past context are nowadays having the opposite effect. In rationalistic terms, they stopped serving their purposes. As a result, new norms that try to serve the purposes in order to get a benefit emerge, and fight against the established ones. This generally explains the source of civil disobedience.

If we analyze the distinction between formal, social, and moral norms, we find that formal norms have a mediated accountability focused on *de re* normative attitudes, that is, complex external mechanisms of legislation, application, and enforcement not known by everybody but dependent on basic rules. For Brennan et al., social norms are justified by their practice-dependency, in the sense that social practices have a justificatory status –the social norm is followed because “it is the way we do things here, in our group”, “it is the tradition here”, “it is our culture”, while moral norms are practice-independent and their accountability is wholly individualistic.²⁰ If we consider using the bike in a large city as a way of transport where it is not common, we are following an individual practice that, if trendy, may spread quickly. If so, we have a community of cyclists that develop a norm –statistical regularity behavior – and finally, if it lasts, they become recognized by external mechanisms promoting an adequate legislation and the platforms needed for an adequate practice of cycling in the city. So the norm begins with

18. See generally JONATHAN P. CAULKINS ET AL., MARIJUANA LEGALIZATION: WHAT EVERYONE NEEDS TO KNOW 16–17 (2012).

19. Miguel Martínez, *El movimiento de okupaciones: una larga e inquietante existencia*, 108 VIENTO SUR 43, 44, 47 (2010) (Spain).

20. See generally BRENNAN ET AL., *supra* note 1, at 57–92.

an individual or reduced will, it spreads becoming a social popular but non-regulated habit or custom, and finally, if it lasts, it develops into a formal law. These authors call this the process of *bootstrapping norms*: “[t]he serious social pressure from a sufficient portion of the community is required to underwrite *each and every* primary rule of the system.”²¹ This helps to explain the spreading and acceptance of the new proposals done by civil disobedience.

Sometimes the initial moral norm is against the established social and legal norms. Thus, social aversion and legal prohibitions towards abortion. We face a confrontation between the new moral norm and the previous social and legal norms. However, it may be the case that this initially moral habit spreads and becomes a social norm of a particular group, leading to a conflict between different social norms, assumed by different groups. If the new social norm is generally assumed, it may evolve into a formal norm. In the particular case of abortion, we are living just this kind of process: it has been legalized in several countries during the Twentieth and Twenty-First Centuries, and society and governments of these places are dealing with the conflicts, that began with acts of civil disobedience.²² In short, when evolving from a moral attitude to a formal norm, social attitude generalization and legal system reformulation may start from civil disobedience coming from individuals or particular groups, and this usually means conflict. But “[I]f social norms involving actions connected with our core interests are rare, we suggest this may be because many of us already accept some kind of moral limits on the justificatory power of social practices.”²³

In civil disobedience, and generally in processes of changing of norms, we can elucidate that the new behavior against the old norm starts from individual moral attitudes. For our authors, there is no mechanism governing morality. Later, we have the bootstrapping processes.

2.1. Norm emergence

Four basic categories explain norm emergence processes: two-step processes, free-flowing cascades, follow-the-leader norm imposition and adoption, and norms from conventions.²⁴

21. BRENNAN ET AL., *supra* note 1, at 94.

22. *See generally* Iñaki Lete et al., *Is There a Need for a New Abortion Law in Spain?*, 19 THE EUR. J. OF CONTRACEPTION AND REPROD. HEALTH CARE 75, 76 (2014) (explaining that social movements have taken place to protest the Spanish government returning to the old norm). This kind of reaction may be analyzed as norm change processes too. *See generally* MERIKE BLOFIELD, *THE POLITICS OF MORAL SIN: ABORTION AND DIVORCE IN SPAIN, CHILE AND ARGENTINA* (2006).

23. BRENNAN ET AL., *supra* note 1, at 87.

24. BRENNAN ET AL., *supra* note 1, at 95–102.

Two-step processes involve an initial informal commitment becoming more formal and punishable. Brennan et al. give as examples political decisions and international laws that start from simple protocols or abstract agreements and after a time become accepted and sanctionable rules.²⁵ Thinking about multiculturalism and multilingualism policies in Europe, in 1992 the Council of Europe promoted the European Charter for Regional or Minority Languages (ECRML) as a protocol to protect minority languages in Europe.²⁶ That supposed the development of more specific laws by States and local governments all over Europe. For instance, the Aragonese Government has passed laws to protect the Aragonese language in 2009 and 2013.²⁷ Although the two-step norm emergence processes are not useful to analyze civil disobedience, they may serve as a way of steering the process of norm change. By contrast, they take a long time, and normally groups cannot afford the delays.

Free-flowing cascades show that people with little to lose will adopt easily transgression conducts, and while they become more, other people with slightly higher threshold will support them, and so on. This is what typically happens in riots: at the beginning, only people in an extreme situation use violence, but as other non-wealthy individuals join, the violent group becomes bigger and more people may support, and even participate in, riots. We have seen this in demonstrations and occupy-movements in countries all over the world. In May 2011, thousands of people following the Arab Spring Movements camped in Puerta del Sol square in Madrid.²⁸ This action was punishable, yet during that week more and more people followed and remained to protest in squares all over Spain.²⁹ Following on the heels of the riots in Gamonal, Burgos in January 2014 and exacerbated by Spain's economic climate, violent riots have increased in popularity in places like Madrid in March 2014 and in Barcelona in May 2014.³⁰ They can be analyzed as free-flowing cascade processes too. If free-flowing cascades triumph, the first objectors usually benefit the most. It must be noted that free-flowing cascades

25. BRENNAN ET AL., *supra* note 1, at 95–97.

26. MALCOLM N. SHAW, *INTERNATIONAL LAW* 263 (7th ed. 2014).

27. Jacobo Compains Clemente, *La Regulación del Pluralismo Lingüístico en Aragón* 54, 76–77 (Feb. 2014) (unpublished Masters thesis, Universidad Pública de Navarra), <http://academic.unavarra.es/bitstream/handle/2454/9665/Jacobo%20Compains.pdf?sequence=1&isAllowed=y>.

28. Ernesto Castañeda, *The Indignados of Spain: A Precedent to Occupy Wall Street*, 11 *SOC. MOVEMENT STUD.* 309, 310 (2012).

29. Jeffrey S. Juris, *Reflections on #Occupy Everywhere: Social Media, Public Space, and Emerging Logics of Aggregation*, 39 *AM. ETHNOLOGIST* 259, 261 (2012).

30. Stephen Burgen, *Thirty Arrested as Rioting Continues at Can Vies Building in Barcelona*, *THE GUARDIAN* (May 29, 2014), <http://www.theguardian.com/world/2014/may/29/can-vies-barcelona-rioting-thirty-arrested>.

can also be informational cascades, because of their similar development. Social networks hold many examples of informational cascades.³¹

Follow-the-leader norm imposition and adoption happens when a powerful person or minority decides to follow a specific norm.³² Little-by-little, this norm spreads among the upper-classes, and finally, among lower-classes. Imposition may occur, but it is not always necessary – at least explicitly. Basil Bernstein studies this imposition in *Class, Codes and Control* with reference to languages.³³ Norbert Elias shows something similar applied to medieval and early modern Europe in *The Civilizing Process*.³⁴ When analyzing endangered cultures, the case of the Aragonese language is paradigmatic: it was the main language in the Aragonese Kingdom during the Middle Ages, but the arrival of the Castilian Dynasty caused the language of the new king, Castilian, to work its way through society until it became the main language.³⁵ Today, the Aragonese language is spoken by few people, generally herders who live in the Pyrenees.³⁶ It must be noted that being a leader does not necessarily imply political or institutional power, but just *power*. For instance, if a particular marijuana smoker is popular within his or her group of non-smoker friends, this activity is likely to spread.³⁷

Norms from conventions arise when initial behavioral regularities that serve a coordination function and apply mechanically become accountable and imply a social or formal sanctioning system. A typical example is traffic rules: at the beginning they were just conventions to allow for coordination between pedestrians and newborn cars.³⁸ Repetition supposes common expectations and finally norm establishment. At the beginning, failing to follow the convention was not punished. City cycling policies are in the middle of the transformation from information convention to formal norm. As bikes become more popular means of transport in some countries, conventions spread, and finally some new social and formal norms emerge. However, depending on pedestrians,

31. Kristina Lerman & Rumi Ghosh, *Information Contagion: An Empirical Study of the Spread of News on Digg and Twitter Social Networks*, in PROCEEDINGS OF THE FOURTH INTERNATIONAL CONFERENCE ON BLOGS AND SOCIAL MEDIA (2010).

32. BRENNAN ET AL., *supra* note 1, at 100–01.

33. Basil Bernstein & David Henderson, *Social Class Differences in the Relevance of Language to Socialization*, in 2 CLASS, CODES AND CONTROL: APPLIED STUDIES TOWARDS A SOCIOLOGY OF LANGUAGE 13, 24 (2003).

34. See NORBERT ELIAS, THE CIVILIZING PROCESS 48–67 (Edmund Jephcott trans., 1994) (discussing the history of table manners in Europe).

35. Francho Nagore Lain, *The Development of the Aragonese Language During the Twentieth Century and its Present Sociolinguistic Standing*, in LANGUAGE: COMPETENCE, CHANGE, CONTACT 193, 193–94 (Annikki Koskensalo et al., eds., 2012).

36. *Id.*

37. See CAULKINS ET AL., *supra* note 18, at 122–24.

38. BRENNAN ET AL., *supra* note 1, at 111–12.

cyclists and automobile users and industry's interests, these conventions and norms are not free from controversy as they challenge the established ones.³⁹

2.2. Norm persistence

Thinking about the sources of *norm persistence* once they emerge, Brennan et al. talk about change costs, change interests, self-fulfilling expectations, and sinkholes.⁴⁰ Thus, norms may persist due to transition costs or an interest in previous norms persisting. Thinking about cycling policies, the change of traffic rules and the adoption of appropriate infrastructures for cycling, though expensive, may imply the onset of new traffic rules. These transition costs are part of the argument used by people who are against implementing cycling as a way of transport in large cities. Moreover, people who are used to using the car as the main way of transport are more interested in established rules persisting.⁴¹

Common expectations serve as a tool for norm persistence too: people expect me to follow the established norm and I expect them to do the same. Expectations allow us to coordinate; they create a bridge between present and future, introducing stability into social life, while making it difficult to change existing norms. Thinking about squatter movements, agents are generally expected not to occupy others' property and they generally expect the same all other agents. Hence it is frowned on to break the rule. Squatters groups must break the expectation in order to spread their new norm.⁴² As we will see, Bicchieri's account of norms is based on expectations and not on accountability.⁴³ A related phenomenon is *pluralistic ignorance*, in which people follow a norm and assume it to be accepted when it is particularly rejected by the majority.⁴⁴ In other terms, it occurs when people generally have a false expectation. Many teenagers believe they must drink alcohol to be accepted within their peer group, and they expect their peers to drink as well, although it may be the case that most of them do not like alcohol.

Finally, the authors talk about *sink holes* – absorbing Markov chains – to explain that some norms are absorbing, and once you fall into them, it is very hard to get out.⁴⁵ For instance, it is very difficult to stop using some electronic devices once you have begun. This last mechanism of norm persisting is not really interesting for a discussion of civil disobedience; they presuppose

39. See John Pucher & Ralph Buehler, *Cycling For a Few or For Everyone: The Importance of Social Justice in Cycling Policy*, 15 WORLD TRANSPORT POL'Y & PRAC. 57, 60–62 (2009).

40. BRENNAN ET AL., *supra* note 1, at 102–07.

41. Pucher & Buehler, *supra* note 39, at 62–63.

42. Martínez, *supra* note 19, at 44, 47.

43. BICCHIERI, *supra* note 2, at 2–4.

44. BRENNAN ET AL., *supra* note 1, at 106.

45. BRENNAN ET AL., *supra* note 1, at 107.

general acceptance in terms of common purposes or benefits –coordination and not cooperation attitudes – and thus they are not controversial.

2.3. Norm change

Brennan et al. state that norms can change both in content and in status.⁴⁶ Changes in content are difficult to carry out without mechanisms of norm creation and application, because of sanctions that norm violators suffer. What the authors propose as a catalyst to change the content of norms are status hierarchies that enable some people to violate the previous norms and establish new ones. In other words, change in content demands a follow-the-leader process. The leaders can have different powers: institutional, media, popular, and so on. For example, some statements made by powerful and famous people like Barack Obama⁴⁷ and Usain Bolt⁴⁸ may help the marijuana legalization processes. Sometimes, new behaviors are interpreted, and reinterpreted, to fit into an existing norm. It must be noted that it is usually easier to modify a given norm than to create a completely new one. Hence, Brennan et al. explain that while marriage was a “[b]usiness affair for uniting property and producing children,”⁴⁹ homosexual relationships did not make any sense, but when marriage became a question of love, they did, and as a result, homosexual couples are being formally recognized.

Thinking about change in status, non-formal norms can derive into formal norms because several causes: the group has become too big; there are disagreements about norm interpretation; people want to warrant a formal sanction assuring an effective application of the norm; and the formalization of the norm may suppose an easier epistemic access to it. Thinking about cycling policies, as cyclists’ numbers are increasing, in some cities we may find disagreements about norm and convention interpretations, or we may find it difficult to access conventions, so formal norms and sanctions are required.⁵⁰

On the other hand, formal norms may evolve into non-formal norms as well. Thinking about languages, language-planning institutions like *Real Academia Española*⁵¹ create and spread norms quickly, thus are assumed to be

46. BRENNAN ET AL., *supra* note 1, at 107–08.

47. Jon Swaine, *Barack Obama Says Smoking Marijuana Less Dangerous Than Drinking Alcohol*, THE TELEGRAPH (U.K.) (Jan. 20, 2014), <http://www.telegraph.co.uk/news/worldnews/barackobama/10582947/Barack-Obama-says-smoking-marijuana-less-dangerous-than-drinking-alcohol.html>.

48. *Usain Bolt: I Smoked Marijuana*, THE TELEGRAPH (U.K.) (Apr. 12, 2009), <http://www.telegraph.co.uk/sport/othersports/athletics/5146085/Usain-Bolt-I-smoked-marijuana.html>.

49. BRENNAN ET AL., *supra* note 1, at 110.

50. Pucher & Buehler, *supra* note 39, at 61.

51. José del Valle & Laura Villa, *La disputada autoridad de las academias: Debate lingüístico-ideológico en torno a la Ortografía de 2010*, 10 REVISTA INTERNACIONAL DE

social norms. Hence, Spanish spelling norms have changed several times during the last decades.⁵² Folk words and idioms have also been recognized by this institution, offering an example of moral and social norms becoming formal ones.⁵³ Both processes are quite similar and can be analyzed as follow-the-leader examples: one or few people create and spread a norm because of their power. The difference is just the kind of power they have: in the case of formal institutions power is political or institutional, while in the case of folk behavior power is popular. For example, artists also have media power and they can spread fashions.

Similar to formal and non-formal norms, moral individual norms can evolve into social norms and social norms can evolve into moral norms. Some agents may feel that pregnant women must be free to decide about abortion and they can convince or get in touch with other people to create a group with the same social norm. Similarly, this group can disseminate information and convince other people, who then also adopt this social norm as a moral norm.⁵⁴

With regard to civil disobedience, typically non-formal norms fight against the established formal norms and, if successful, change them. Few people act as leaders in a broad sense, to try and change the established norm, seeking more justice or benefits. If more and more people follow this new social norm, it will become a formal norm.

2.4. Norms unraveling and breaching

Norm change starts with the will of one or few agents who adopt a new attitude or behavior that spreads due to social or practical reasons (sections 2.1 & 2.3). Norm change is likely to find difficulties, as we have seen in section 2.2, but it also presents some plus points.

Brennan et al. show that while the number of norm violators is increasing, the probability of being sanctioned, the number of sanctioners, the number of penalties, the severity of sanctions, and the disesteem against violators decrease.⁵⁵ Furthermore, others' behaviors affect our own expectations and attitudes, especially in ambiguous norms. It is important to point out that all these factors depend on the perception of compliance, not on actual compliance: "[W]e have given the impression that it is actual compliance levels that matter. This is of course not right: it is the *perception* of compliance

LINGÜÍSTICA IBEROAMERICANA 29, 30 (2012) (Ger.). This institution focuses on the Spanish language.

52. *Id.* at 30–49.

53. *Id.* at 31.

54. Alison Norris et al., *Abortion Stigma: A Reconceptualization of Constituents, Causes, and Consequences*, 21 WOMEN'S HEALTH ISSUES S49, S49–53 (2011).

55. BRENNAN ET AL., *supra* note 1, at 114–18.

levels that influences people's behavior."⁵⁶ Thinking about smoking marijuana, while this drug is becoming more and more popular, that is, while the number of smokers is increasing, the probability of being sanctioned is lower, probably the number and severity of fines too, and the disesteem against smokers decreases as well.⁵⁷

The schemata Thomas Risse, Stephen Ropp and Kathryn Sikkink propose for some norm change refusal consist of five steps: repression, denial, tactical concessions, prescriptive status and finally rule-consistent behavior.⁵⁸ Applying it to the Aragonese endangered language, its use was cruelly repressed during the François Spain; then, rights were denied during the first years of democracy; later, some tactical concessions were given in the form of some literary prizes, and in recent years (2009, 2013) some specific laws to protect and promote this language have been passed by the regional government.⁵⁹

Brennan et al. describe several forms of norm breaching.⁶⁰ People can just ignore the norm, acting as they would have done had the norm not existed. Also, people can calculate the difference between paying penalties or acting in accordance with the law, and decide what is better. For instance, take urban cyclists that act as if there were no specific regulations for bikes in cities. Imagine fines for cycling on pedestrian sidewalks are cheap: a lot of cyclists would use them. If it is too costly to comply with a norm, it will not be complied with. People may also pretend to comply disguising non-compliance. Marijuana smokers, especially young ones without their parents' permission, usually do not manifest that they smoke marijuana because of the possible stigmatization or punishment. Another way of breaching a norm is to find a particular context that exempts from the application of this norm or the punishments related. Thus, some marijuana smokers go to specific private (some clubs) or discrete public places (like lonely parks) to smoke.

The two most interesting ways of breaching a norm given by Brennan et al. are *conscientious objection*⁶¹ and *civil disobedience*.⁶² They imply violating a norm to undermine it and breaching this unwanted norm conscientiously. The objector wants to make public this norm violation, making a difference with common non-compliers: the rest of people must know that there is some conscientious objection. For instance, in 2013 supporters of Occitan language

56. BRENNAN ET AL., *supra* note 1, at 117.

57. See CAULKINS ET AL., *supra* note 18, at 42–52.

58. Thomas Risse & Kathryn Sikkink, *The Socialization of International Human Rights Norms into Domestic Practices: Introduction*, in THE POWER OF HUMAN RIGHTS INTERNATIONAL NORMS AND DOMESTIC CHANGE 1, 22–31 (Thomas Risse et al. eds., 2000).

59. See Compains Clemente, *supra* note 27, at 8–21.

60. BRENNAN ET AL., *supra* note 1, at 234–44.

61. BRENNAN ET AL., *supra* note 1, at 234–44.

62. BRENNAN ET AL., *supra* note 1, at 234–44.

in Toulouse entered the new tram shouting the street names in Occitan language when the train announced them in French.⁶³ Recently some people refuse to pay metro in Spain as a way of protesting against public policies.⁶⁴ In this case, they risk of being seen as just common non-compliers or free riders who only want to travel for free, and they have to make public both their norm violation and its motives.⁶⁵

It must be noted that in the case of norms followed because of false expectations without a general desire to comply –*pluralistic ignorance*, see sections 2.2 & 3.2, once the real general feelings are discovered, false expectations and related norms quickly disappear.

2.5. *Bad norms*

We are used to considering some established norms as bad norms. Some of them refer to cliché and stereotypes, others to controversial laws and habits, and so on. Civil disobedience was born out of the will to change these norms, even though they may not be bad for everybody.

Speaking to the emergence of bad norms, Brennan et al. show that people may adopt bad norms because they are mistaken either about the facts or about others' intentions.⁶⁶ Norms can also have multiple, good and bad, effects. Thus it may be difficult to evaluate the final outcome. Other norms may have been good in the past but not in the present, as circumstances have changed. Mistakes about facts or others intentions do not suppose a big problem in the long run, because once the agents realize the mistake, the norm quickly disappears. Problems arise with multiple effects, especially when some people focus on bad effects and others just on good. Thinking about squatter movements, their supporters usually focus on bad consequences of private property and capitalism –as having both empty buildings and homeless people – while critics towards them focus on good consequences of capitalism.⁶⁷ We

63. See Ben Lerwill, *Toulouse: Occitan*, NATIONAL GEOGRAPHIC TRAVELLER (U.K.) (Jan. 15, 2013), <http://www.natgeotraveller.co.uk/destinations/europe/france/toulouse-occitan/> (describing the tradition in Toulouse that the tram would announce street names in both French and Occitan); *Speakers of France's Endangered Languages Demand Recognition*, THE OBSERVERS (Fr.) (Apr. 4, 2012), <http://observers.france24.com/en/20120404-speakers-france-endangered-languages-protest-recognition-local-regional-minority-presidential-election>; *Thousands March for Regional Langue Do'c in Toulouse*, RFI (Fr.) (Mar. 31, 2012), <http://www.english.rfi.fr/culture/20120331-thousands-march-regional-langue-doc-toulouse>.

64. *Spanish Commuters say 'I'm not paying' to Fare Hikes*, THE OBSERVERS (Jan. 19, 2012), <http://observers.france24.com/en/20120119-spain-commuters-say-yo-no-pago-not-paying-fare-hikes-public-transport-debt-crisis>.

65. *Id.*

66. BRENNAN ET AL., *supra* note 1, at 177–78; see also discussion of Norm Persistence *supra* Part 2.2; see also discussion of Pluralistic Ignorance *infra* Part 3.2.

67. See Martínez, *supra* note 19, at 43–48.

also find problems when contexts change. Some people want to adapt or change the existing norm, while others prefer to maintain previous circumstances. For example, most current regulations and orders about traffic are made considering two kinds of agents: pedestrians and motor vehicle drivers. Nevertheless, cycling is becoming more popular as an urban way of transport, and in some countries the established rules are not efficient, for cyclists, pedestrians, nor motor vehicle drivers. Facing this new situation, some people want to adapt and create new rules and infrastructures while others prefer to limit bike use and come back to the previous context.⁶⁸

Bad norms persist in almost the same way as norms in general do.⁶⁹ People may internalize norms without any deep reflection. On the other hand, it can be difficult to organize a collective action to change the established norm, and sometimes it is necessary to take one step back in order to move two steps forward. It can be thought that bad norms are not so bad when compared to other historical norms, and that it is better to follow the old norm rather than joining into an anarchic state. If we recall the squatter movement context and their criticisms against capitalism, we may find that capitalism itself still presents some broad problems. But many people have internalized this system and it is difficult to implement an alternative.⁷⁰ To make a new system is a difficult task; we can always praise capitalism as compared to previous systems like feudalism. Furthermore, changing such a deep norm may put us into an anarchic state. All these mechanisms, usually based on the fear of change and the absence of deliberation, act as old norm protectors. *Pluralistic Ignorance* (see sections 2.2 & 3.2) may help such norm persistence. Furthermore, it is likely to be accompanied by norms of anti-criticism in respect of these bad norms: squatters usually are not viewed well, most of their activities are penalized, and there may be *moralistic aggression* for those who fail to sanction them.⁷¹

2.6. Norm following vs. Norm conforming

Following a norm implies norm internalization, which is, to act in accordance with the norm, treating it as a non-instrumental reason. The person who follows the norm acts because of the norm, making it extremely difficult to change her mind. On the other hand, conforming with norms implies norm externalization, that is, to act in accordance with the norm because of external considerations—usually instrumental reasons.

68. See Pucher & Buehler, *supra* note 39, at 59–61.

69. BRENNAN ET AL., *supra* note 1, at 179–83.

70. Martinez, *supra* note 19, at 43–48.

71. Robert Boyd & Peter J. Richerson, *Punishment Allows the Evolution of Cooperation (or Anything Else) in Sizable Groups*, 13 ETHOLOGY AND SOCIOBIOLOGY 171, 183 (1992).

Following a norm supposes a conative account rather than a cognitive account. In a cognitive account, individuals have cognitive states involving the norm, such as beliefs or perceptions.⁷² In a conative account, desires, preferences, and emotions in general, explain agent behavior.⁷³ As far as following a norm supposes norm internalization and treating rules in a non-instrumental manner, emotional and conative features are key. That is why followed and internalized norms are more rigid and difficult to change. If we take the previous distinction between moral, social, and formal norms, we find that formal norms, as they depend on *de dicto* external normative attitudes and powers, are conformed. Social norms, as they are compiled with internally, are the archetype of followed norms.

Conforming with norms implies acting according to the norm because of external reasons, usually instrumental ones like sanctions: tangible sanctions (legal, economic, or political sanctions), folk sanctions (gossiping, ostracism), or intangible sanctions (remorse). Of course, people may decide to violate the norm if potential benefits are higher than sanction severity. Furthermore, sanctioning is usually costly. Other factors, like being observed during norm breaching, audience size and quality, reputation, and formal design come into play. For Brennan et al., if following a norm was socially common, conforming with formal norms is proper.⁷⁴ Moral norms are more problematic, as we can think that we obey them for internal idealist reasons or because they suppose some kind of profit. However, conforming with a norm is not incompatible with following that norm, as far as the same norm can be a formal, social, and moral norm.

Transferring this analysis to civil disobedience, norm change is harder when the old established norm is followed generally than when it is just conformed to, as the norm is internally obeyed and final motivations are emotional. Changes in conformed norms only have to deal with sanctions. For instance, being against abortion used to be an internalized norm among Spanish society.⁷⁵ Actually, some people follow this idea. They justify their stance on abortion not on external reasons but just on the norm itself and it is extremely difficult for them to change their minds. On the other hand, people who adopt the same norm in terms of conformity can change their opinion easily; when sanctions become softer, abortion gets more popular and they focus on the benefits it may suppose.⁷⁶

72. See generally BRENNAN ET AL., *supra* note 1, at 195–217 (discussing norm following).

73. See generally BRENNAN ET AL., *supra* note 1, at 195–217.

74. See generally BRENNAN ET AL., *supra* note 1, at 213–33 (explaining norm conforming).

75. See generally BRENNAN ET AL., *supra* note 1, at 213–33.

76. See generally BLOFIELD, *supra* note 22, at 88–94; Norris et al., *supra* note 54, at S49–54; Lete et al., *supra* note 22, at 75–77.

3. NORMS IN BICCHIERI'S *THE GRAMMAR OF SOCIETY* (BICCHIERI, 2006)

*The Grammar of Society*⁷⁷ offers an agentialist but reductive view of norms, while *Explaining Norms*⁷⁸ provided an agentialist and non-reductive definition.⁷⁹ Bicchieri defines norms in terms of agents' expectations and the conditional preferences depending of those expectations: "[c]ollective phenomena are ultimately the outcome of a myriad of individual decisions."⁸⁰ Groups are only instruments for norm deployment, while the causes are expectations and the purposes are coordination and cooperation among people. The concept of expectation is intrinsically linked to the statistical definition of norm, supposing not a general behavior but a general belief. Communication is essential for expectations, norms, and identity generation. In Bicchieri's analysis, context is indispensable for norm activation. Thus, both situational and dispositional components are mandatory. She distinguishes between social norms, descriptive norms, and conventions.

The definition of social norm given in *The Grammar of Society* is:

Let R be a *behavioral rule* for situations of type S , where S can be represented as a mixed-motive game. We say that R is a social norm in a population P if there exists a sufficiently large subset $P_{cf} \subseteq P$ such that, for each individual $i \in P_{cf}$:

Contingency: i knows that a rule R exists and applies to situations of type S ;

Conditional preference: i prefers to conform to R in situations of type S on the condition that:

(a) *Empirical expectation*: i believes that a sufficiently large subset of P conforms to R in situations of type S ;

and either

(b) *Normative expectations*: i believes that a sufficiently large subset of P expects i to conform R in situations of type S ;

or

(b) *Normative expectations with sanctions*: i believes that a sufficiently large subset of P expects i to conform to R in situations of type S , prefers i to conform, and may sanction behavior.

A social norm R is *followed* by population P if there exists a sufficiently large subset $P_f \subseteq P_{cf}$ such that, for each individual $i \in P_f$, conditions 2(a) and either

77. See generally BICCHIERI, *supra* note 2.

78. See generally BRENNAN ET AL., *supra* note 1.

79. See generally BICCHIERI, *supra* note 2, at 2; BRENNAN ET AL., *supra* note 1, at 260. Nevertheless, we may argue that their definition of norm is based on accountability.

80. BICCHIERI, *supra* note 2, at 56.

2(b) or 2(b') are met for i and, as a result, i prefers to conform to R in situations of type S .⁸¹

It must be noted that the norm classification proposed by Bicchieri is different from that posited by Brennan et al.⁸² Nevertheless, Bicchieri touches on formal and moral norms briefly just to show that the previous definition based on expectations applies only to social norms.⁸³

Social norms based on expectations suppose regularity –about beliefs, not necessarily about norm compliance. They usually work as solution to cooperation problems, promoting equilibrium, while descriptive norms and conventions serve as solutions to coordination problems.⁸⁴ If we think about the traditional anti-abortion social norm, we find that due to historical, political, or religious circumstances, most of the population (P_{cf}) knew the anti-abortion rule (*contingency condition*) and agents preferred to conform to it if they noticed that a large part of people conformed to it (*empirical expectation*) and if they perceived that a large part of people expected them to comply (*normative expectation*). Although in this case there was a sanction if the agent violated the norm (*condition 2(b')*), accountability and norm following (P_f) are not necessary to have social norms, but just a regularity in norm expectation (conditions 2(a) and 2(b)). The norm can be breached if people do not know of it or if they decide not to conform to it, breaking the system of common expectations. The latter is the case of civil disobedience. Thus, in the abortion case, pregnant women who decide to abort –clandestinely or abroad – break the common expectation. If this behavior spreads, regularities about rule expectation (P_{cf}) and rule following (P_f) disappear, and so the norm. It must be noted that social norms may be ambiguous; furthermore, several norms may apply to the same situation. In a lot of cases situational and contextual variables may change agents and behaviors. In our example, life risk for the pregnant woman may induce an anti-abortion supporter to allow for abortion.⁸⁵

On the contrary, moral norms are not based on expectations but on unconditional commitments. The reasons to comply with the former reside in both agents and the norm itself, and not on common expectations. Although Bicchieri does not focus on these, if a moral norm spreads, it may generate common expectations and become a social norm.⁸⁶ Also, Bicchieri states that

81. BICCHIERI, *supra* note 2, at 11.

82. *See generally* BRENNAN ET AL., *supra* note 1, at 260.

83. BICCHIERI, *supra* note 2, at 8.

84. BICCHIERI, *supra* note 2, at 2–3. Coordination deals with aligned individual interests and cooperation treats opposed interests. *See id.*

85. *See generally* BLOFIELD, *supra* note 22, at 4; Norris et al., *supra* note 51, at S49–54; Lete et al., *supra* note 22, at 75–77.

86. *See generally* BICCHIERI, *supra* note 2, at 8.

people are more likely to punish social or descriptive norm violations rather than their own moral norm violations.⁸⁷

Bicchieri gives the formal definition of descriptive norm as:

Let R be a *behavioral rule* for situations of type S , where S is a coordination game. We say that R is a descriptive norm in a population P if there exists a sufficiently large subset $P_{cf} \subseteq P$ such that, for each individual $i \in P_{cf}$:

1. *Contingency*: i knows that a rule R exists and applies to situations of type S ;

2. *Conditional preference*: i prefers to conform to R in situations of type S on the condition that:

(a) *Empirical expectations*: i believes that a sufficiently large subset of P conforms to R in situations of type S .

A descriptive norm is followed by population P if there exists a sufficiently large subset $P_f \subseteq P_{cf}$ such that, for all $i \in P_f$, Conditions 2(a) is met for i and as a result i prefers to conform R in situations of type S .⁸⁸

Descriptive norms apply to coordination, and not mixed-motive games. The reasons to conform with descriptive norms are not others' expectations – normative expectations disappear – or the necessity to solve conflicts between selfish and pro-social interests, but solving preexisting coordination problems. Informational influence replaces normative influence. However, a descriptive norm is an equilibrium: “[I]f one believes R to be widely followed, then it is in one's interest to follow R , too.”⁸⁹ Descriptive norms usually make life better for the group, and for ourselves. The archetypal example of descriptive norm is fashion: life is easier if we fit into the mainstream, although there is no obligation or any expectation to follow the norm.

This definition of descriptive norm does not fit into the general definition of norm given by Brennan et al., based on accountability.⁹⁰ Actually, Bicchieri states that “[c]onformity to a descriptive norm need not involve an obligation or normative expectation: We do not feel any group pressure to conform (...) Deviation from the ‘norm’ is not punished.”⁹¹ Nevertheless, I believe that

87. BICCHIERI, *supra* note 2, at 139, 151 (“In the absence of external sanctions of any kind only a personal system of values would have sufficient motivational power to induce subjects to cooperate.”). I strongly disagree with Bicchieri here. A system of values activated in the absence of expectations and sanctions is not enough. BRENNAN ET AL., *supra* note 1, at 87 (“Many of us already accept some kind of moral limits on the justificatory power of social practices [and expectations].”) (explaining a key point of civil disobedience).

88. BICCHIERI, *supra* note 2, at 31–32.

89. BICCHIERI, *supra* note 2, at 32.

90. See generally BRENNAN ET AL., *supra* note 1, at 36–37.

91. BICCHIERI, *supra* note 2, at 30.

Brennan et al. would argue that positive results of complying with a descriptive norm involve some kind of accountability.⁹²

Descriptive norms are vulnerable if agents get a benefit for breaching them and good descriptive norms usually imply this kind of situation. As a result, they are more vulnerable than bad descriptive norms.

Descriptive norms, as they do not concern obligations or others' expectations, may not be interesting in terms of norm change and civil disobedience processes. But, as far as they may serve as an instrument to perpetuate the mainstream, it is interesting to analyze the example of fashions and other descriptive norms among groups who want to change the established rules. So far, defenders of marijuana legalization are usually recognized for their own aesthetics based on Rastafari subculture and reggae music, while squatters usually follow punk fads.⁹³ Two goals emerge from the promotion of fashion: to escape from the mainstream fashion usually related to the established norms and to create their own descriptive norm that gives internal cohesion and may help to spread the alternative norm.

Finally, the formal definition of conventions is:

A descriptive norm is a convention if there exists a sufficiently large subset $P_f \subseteq P$ such that, for each individual $i \in P_f$, the following conditions hold:

1. *Empirical expectations*: i believes that a sufficiently large subset of P conforms to R in situations of type S and
2. S is a coordination game without nonstrict Nash equilibria [it is a player's interest to stick it].

Recall that, for a descriptive norm to be followed, empirical expectations [Condition 2(a)] had to be met. Hence, a convention is always a *followed* descriptive norm, because empirical expectations are met. That is, the follower of a convention always expects a sufficiently large subset of P to conform.⁹⁴

Both conventions and social norms imply empirical expectations, but conventions are usually followed without problems while social norms may not.⁹⁵ Conventions revolve around original automatic coordination games in which agents' selfish motives are not confronted, while social norms respond to cooperation problems in which agents' interests are involved. In short, social norms are not as stable as conventions. Deep-rooted social norms usually crystallize into conventions. On the other hand, breaking conventions that produce negative externalities may, in turn, turn them into social norms. Also, conventions are usually arbitrary. Thinking about traffic, cars in cities supposed the creation of social norms that became conventions decades later.

92. See BRENNAN ET AL., *supra* note 1, at 36–37.

93. BRAKE, *supra* note 17, at 76–80, 133–39.

94. BICCHIERI, *supra* note 2, at 38.

95. BICCHIERI, *supra* note 2, at 95.

Bikes as a new urban way of transport have lapsed these conventions,⁹⁶ turning them into discussed social norms and creating new controversial social norms that, after a time, are likely to crystallize as new conventions.

It is difficult to set the boundaries between social norms, descriptive norms and conventions when analyzing a particular norm. Conventions are usually performed automatically –without leaving out rationality – while social norms imply a conscious interpretation. Social norms may come from descriptive norms or from pro-social norms (cooperation, reciprocity, fairness...). On the other hand, conscientious objectors form new groups generating internal expectations that evolve into norms followed by the in-group members. Not only do they support these new norms but they also promote and try to spread them. It is important to remark that expectations need not be universal, just general in order to follow a norm.

3.1. *Categories, schemata, cues, scripts, groups and culture*

Bicchieri defines norms in terms of expectations, and ultimately, in terms of preferences and beliefs.⁹⁷ More specifically, she analyzes norm-activation processes in terms of cues, scripts, and schemata.⁹⁸ This modular conceptualization starts from context –external inputs – and continues with attention and interpretation of cues stored because of previous experiences. Then the particular situation is categorized in terms of these cues and as a result scripts are activated. Later, beliefs and preferences are activated by mixing dispositional attitudes with the initial situational or contextual elements. Finally, the norm is turned on informing the agent about the system of expectations. In this process, both context and information previously stored are decisive: what is called semantic priming increases the speed and accuracy of decisions.

In other words, there is a general process of categorization when a schema or script is activated. This process starts with channeling attention to specific stimuli and ends with actions. It should be noted that when categorizing, we must focus on ideal cues or prototypes –especially when we do not know a lot about the stimuli –or just on a set of empirical examples previously experimented –when we have enough and they represent flexibility and variability. Categorization depends on background knowledge, particular decision context, and final goals. For instance, an anti-abortionist gets the case of a pregnant woman as an input, and quickly he gets a cue depending on previous cases. Then anti-abortion scripts are activated and thus his anti-abortion beliefs and preferences. Finally, the anti-abortionist norm and its expectations system are turned on and promoted. If a pregnant woman's life is

96. Pucher & Buehler, *supra* note 39, at 59, 60.

97. BICCHIERI, *supra* note 2, at 2.

98. *See* BICCHIERI, *supra* note 2, at 81–82.

in danger, the cues may be different: the anti-abortionist may know about death or injured pregnant women or he may not have any previous experience and need to create a rudimentary theory about it, drawing inferences, making predictions, and interpreting. The former case is likely to activate a pro-abortion script, its corresponding beliefs and preferences and ultimately the abortionist norm. The latter case is ambiguous and both pro-abortion and anti-abortion scripts, beliefs, preferences, and norms may be activated.

Cultures make easier coordination and cooperation among their members, as they conceive certain stored norms as fundamental: “[I]n-group favoritism is based on the expectations that favors made to in-group members are more likely to be reciprocated than favors made to out-group members.”⁹⁹ Group-specific norms maximize differences between the group and outsiders, and minimize differences among its members. Nevertheless, Bicchieri states that similarity is more a consequence than a cause of group formation.¹⁰⁰ If we apply it to our civil disobedience cases, it is not that similarity between pregnant pro-abortion women, marijuana legalization supporters, urban cyclists, or squatters create their culture and as a result form a group. Instead, they have a common goal –this may be the only initial similarity – they create a group and finally they develop some common roles and expectations. Actually group behavior and group membership can exist without any social context, structure, or any interdependence between members: the only thing needed for group formation is “[t]he recognition and acceptance of some self-defining social categorization.”¹⁰¹ Generally, perceived similarities and discussions maintain and create group identity. But specific commitments, promise-keeping norms, and particularly discussions, are more likely to induce cooperation than previous group identity.

The differences between natural and human beliefs must be pointed out. While the first are independent –at least to a certain extent – of human beliefs and behaviors discovered from a host of inductive inferences (eg. birds, apes), the latter are made by men having a limited inductive potential (eg. social classes, nationalities). People tend to consider social categories as natural kinds with their high inductive potential and stability: this usually happens in stereotyping. Considering the cases of civil disobedience, all the established rules are human kinds that are usually treated as natural –and even universal – by compliers, in some kind of naturalistic fallacy:¹⁰² abortion, cycling,

99. BICCHIERI, *supra* note 2, at 154 n.13.

100. BICCHIERI, *supra* note 2, at 155–56.

101. BICCHIERI, *supra* note 2, at 159.

102. BICCHIERI, *supra* note 2, at 96 (“[W]e are, in other words, subject to a naturalistic fallacy in most of our daily dealings. The projectible regularity, when human interactions are involved, comes to be perceived as a right or a duty.”) (explaining that by considering human rules as natural we can promote and perpetuate the established rules in their own terms).

promoting endangered languages, and squatter movements seem *unnatural* for traditional norms followers. Nowadays there is a great controversy in Spain about the Constitution,¹⁰³ as it is commonly used as the final argument against major political and social change proposals, working as a natural universal kind.

3.2. Norm formation and pluralistic ignorance

Bicchieri explains norm formation in terms of expectations, in order to reach the best possible result when facing a new situation.¹⁰⁴ People search for an existing behavioral rule that can apply to the new situation and form beliefs in order to coordinate. The information already stored in scripts and is turned on by cues of situations that resemble the new one.

Bicchieri pays special attention to the *pluralistic ignorance* phenomena (sections 2.2 & 3.2) in which people misperceive their social environment, develop false expectations, underestimate the similarity between their beliefs and their peers', and finally state a norm that nobody wants.¹⁰⁵ For instance, a group of friends wants to go to the cinema and everybody expects that the rest want to watch a particular film, while in reality, nobody really wants to watch that film, and finally all of them watch that unwanted film. For Bicchieri, the reason of *pluralistic ignorance* is a self/other difference.¹⁰⁶ Thus, due to embarrassment or the desire to fit in, there is a tendency to think the behavior of others in terms of their internal causes (beliefs, preferences) and our own behaviors in terms of external causes (social pressure). Thinking about abortion—at least in Spain some decades ago—there was a false expectation in some people: they thought the rest of the group were against abortion, while a great part of them were not, but at the beginning nobody spoke out due to expected social pressure. These cases were more acute when pregnant women decided to abort, and were forced to keep it secret.¹⁰⁷

It must be noted that *pluralistic ignorance* norms, although privately unpopular, suppose equilibria. Furthermore, they may in time be internalized by people who followed them against their will, “[s]o that fake loyalty may become true loyalty.”¹⁰⁸ On the other hand, as far as these norms are based on initially false expectations opposed to real particular desires, they are fragile: “[T]he prescriptive force of a norm is derived by its perceived universality: If

103. Enric Martínez-Herrera & Thomas J. Miley, *The Constitution and The Politics of National Identity in Spain*, 16 *NATIONS AND NATIONALISM*, 6, 23–27 (2010).

104. BICCHIERI, *supra* note 2, at 178–79.

105. See BICCHIERI, *supra* note 2, at 186–88.

106. See BICCHIERI, *supra* note 2, at 188–93.

107. See BLOFIELD, *supra* note 22, at 78–79; Norris et al., *supra* note 54, at S50; Lete et al., *supra* note 22, at 76.

108. BICCHIERI, *supra* note 2, at 194.

people come to recognize that support for a given norm is limited or wavering, its power to induce conformity will be greatly reduced or even nullified.”¹⁰⁹

Pluralistic ignorance norms are accompanied by informational cascades: individuals follow others observed behavior regardless of his own desires or preferences. Informational cascades are weak as they can easily change with new pieces of information. Change in informational cascades may suppose change in *pluralistic ignorance* norms.

3.3. Bicchieri (2006) on norm change and civil disobedience

Although we apply Bicchieri’s norm analysis based on expectations of civil disobedience, it must be noted that she believes that norms change due to fragile *pluralistic ignorance* norms, mistakes in following established norms, or technical, cooperative, or coordinative reasons.¹¹⁰ The action of subversive minorities is not, to her, a real reason. This is contrary to the hypothesis defended here. Bicchieri merely makes conclusory statements on the subject:

[B]ecause my explanations of such shifts does not rely on the existence of a few nonconformists, the combination of pluralistic ignorance with the possibility of ‘contravening a norm by mistake’ make the collapse of unpopular norms much more likely than it would otherwise be.¹¹¹

[i]t follows that people are unlikely to consciously choose to deviate, but it is not unreasonable to assume that others believe the deviant’s off-equilibrium choice to reveal his true preference.¹¹²

[I]t would be a mistake to suppose that only the actions of a ‘subversive’ minority or the availability of public information about what most people really think (or like) could be expected to generate sudden and unexpected changes in well-established norms.¹¹³

Actually Bicchieri believes norms emerge due to agents’ behavioral repetitions, beliefs about the existence of norms, and the spread of basic social-dilemma norms into other areas.

4. CONCLUSIONS

In this paper I have analyzed the concepts of norm given by Brennan et al and Bicchieri, and I have applied them to the concept of civil disobedience.

I have considered civil disobedience as a kind of norm change process, having an established *old norm* and a *new norm* that clashes against the former, implying some kind of conflict. New norms emerge due to new purposes and

109. BICCHIERI, *supra* note 2, at 195.

110. BICCHIERI, *supra* note 2, at 195.

111. BICCHIERI, *supra* note 2, at 196.

112. BICCHIERI, *supra* note 2, at 205.

113. BICCHIERI, *supra* note 2, at 207–08.

beneficial outcomes: they arise both as a way of fighting against the damages caused by the established norm and as a way of promoting new cooperation and coordination strategies and more beneficial outcomes. Problems start with different concepts of benefit among people. Thus, new pro-abortion, urban cycling, squatting, marijuana smoking, and new language norms emerge as a result of new expected benefits.¹¹⁴

Coordination supposes an agreement reached when agents' interests are aligned and cooperation means a pact between parties with different views and interests. As a result, coordination is usually less controversial and more stable than cooperation. New norm emergence is favored by some processes: two-step processes, free-flowing cascades, follow-the-leader norm imposition, and norms from conventions. Old norm persistence is helped by change costs, change disinterest, change organization difficulties, particular historical comparisons, self-fulfilling expectations, and sinkholes: in short, fear of change and laziness. Norm change, based on follow-the-leader and free-flowing cascades processes, is strengthened by old norm reinterpretations. People can breach the established norm in different ways: ignoring it, calculating the difference between complying with it and paying penalties, pretending to comply, disguising non-compliance, or escaping from the application of this norm. Bad norms may be adopted because of mistakes about facts or intentions of others –*pluralistic ignorance* – their multiple good and bad effects –with some people focusing on good effects and others on bad ones – and their virtues in the past but not currently. Finally we must note the difference between following a norm, when we internalize it and treat it as an end and not as a mean, and complying with a norm, acting according to the norm due to external instrumental considerations: followed norms are more difficult to change than complied norms.

New norms emerge from particular agents or minorities, resulting in moral norms and attitudes. Then they spread, generating expectations, becoming social habits or customs –maybe conventions, as traffic rules history shows us – and finally, formal laws. So everything starts from a leader –or a leader

114. See generally Compains Clemente, *supra* note 27, at 8–14. The expected benefits can be communal or individual. In the latter case, they must be applied to every agent or most people in order for the new norm to have enough promoters and finally triumph. In the case of the Aragonese language, the initial benefit of changing the language into Spanish was just a benefit for the king, while the rest of the population remained disadvantaged as they did not speak Argonese. See generally Compains Clemente, *supra* note 27, at 8–14. But quickly Aragonese novelty adopted the new norm –the new language – in order to get the profits of speaking the king's language. See generally Compains Clemente, *supra* note 27, at 8–14. Interestingly, Catalan novelty, which had the same king but their own language, continued using their language and moreover they encouraged the new king to use it. See generally Compains Clemente, *supra* note 27, at 8–14. Hence, we find different benefits and sanctions related to both learning the new language and continuing with the one already established.

minority – who decides to follow an alternative norm. The nature and power of the leader may be political-institutional, as in the case of the Aragonese king and the linguistic substitution process, or popular. Civil disobedience is commonly related with popular power and it supposes some kind of conflict. Nevertheless, both processes are very similar: new norms emerge and spread in terms of statistical regularity.

In norm change, we have accountability for followers of both the old and the new norm. As the new norm becomes more popular, the number of old norm violators increases and social disesteem, severity of sanction, number, and possibility of being sanctioned drop. On the contrary, old norm followers decrease, number of violators increase, and finally following this old norm may be sanctioned with more severity, social disesteem may increase, and this old norm becomes less and less popular. As we can consider different kinds of norms –moral particular norms, social non-formal norms, and formal laws – we also can establish different kinds of accountability and sanctions associated with it –strangeness, remorse, gossip, ostracism, and finally formal punishments. Norms' status change depends on group size, disagreements about interpretations, efficiency, or epistemic access. When examining norms, we always find accountability and sanctions, in a broad sense.

Groups having a norm –new or old –suppose internal expectations and sanctions among their members. Groups create roles, have their fashions, establish their culture, and finally their own identity. Many marijuana supporters usually follow Rastafarian aesthetics and squatters are likely to follow punk fads. For Brennan et al., group identity helps to explain how norms emerge and persist.¹¹⁵ For Bicchieri they imply descriptive norms that provide group cohesion and reinforce the initial social norm with its goals.¹¹⁶ Group identity can maximize the gap between the old mainstream norm and the new subversive norm, and homogenizes the new community. Cultures create in-group expectations and make easier both cooperation and coordination. When analyzing norms in an in-group context, we also find patterns of statistical regularity and accountability. To a certain extent, agents expect cultural and identity elements and norms in the rest of the in-group individuals. If these norms are not followed by an in-group agent, mistrust may appear as a kind of sanction.

Contrary to Bicchieri, I believe that norms always imply some kind of accountability and sanctions. Social norms violated by an agent when he was expected to comply may not incur formal punishment, but will develop others sanctions like mistrust or gossip. Her view of descriptive norms and conventions also implies external expectation on agents: if an individual does not follow the mainstream fashion he will not be formally punished, but the

115. BRENNAN ET AL., *supra* note 1, at 71.

116. BICCHIERI, *supra* note 2, at 194.

rest of people will give him odd looks. If we think of the alternative subversive in-group, the agent who does not follow their particular trends is likely to be viewed with some skepticism. If conventions are not followed and this leads to bad results, this action will quickly be sanctioned and these conventions may become social or formal norms. On the other hand, I do not agree with Brennan et al. about establishing a difference between norms generally followed and normative attitudes followed by few people. When talking about *Rationally reconstructing why norms persist* (section 6.6) and *Internalizing norms* (section 9.1) they make explicit this difference, although they admit there is no fixed number or proportion of people to jump from normative principles into norms. I believe that norms are established when a small group (no matter how small) shares a norm with its related in-group accountability and expectations: the previous step consists merely of having individual moral norms.

It is important to remark that publicity is necessary when agents subversively try to substitute a norm. It shows the difference between civil disobedience as a way of changing norms and just taking profit from violating established norms. Furthermore, when the new norm is emerging and spreading, we are likely to work out new norm details for solving its mistakes and maybe adapting it to the old one. It should also be pointed out that norms are artificial creations, although groups and agents usually treat them as natural universals. Finally, norms activate because of both contextual and dispositional variables.

To sum up, the definition of norm given by Brennan et al. is based on *accountability*: every norm has a related sanction if violated. They consider a broad definition of sanctions, implying consciousness charges (moral norms), social disappointment or gossip (social norms), and formal punishments (formal norms).¹¹⁷ On the other hand, Bicchieri considers norms in terms of *expectations*.¹¹⁸ Different kinds of norms –social norms, descriptive norms, and conventions – present different expectations –empirical expectations if we expect others, normative sanctions if we are expected by others – depending on different cooperation or coordination purposes. In other words, Brennan et al. based their view of norms on accountability and sanctions, while Bicchieri defines norm in terms of expected statistical regularity (her accurate analysis does not expect behavioral regularity but expectations' regularity).

Interestingly, if we look up *norm* in the *Oxford Dictionaries* we find:

1. (the norm) Something that is usual, typical, or standard: *this system has been the norm in Germany for decades*

117. BRENNAN ET AL., *supra* note 1, at 260.

118. BICCHIERI, *supra* note 2, at 194.

1.1. (usually norms) A standard or pattern, especially of social behavior, that is typical or expected: *the norms of good behavior in the civil service*

1.2. A required standard; a level to be complied with or reached: *the 7 % pay norm had been breached again.*¹¹⁹

In these definitions we have both the statistical component of norm (standard, pattern, typical, expected) and the accountability component (required, to be complied with). Thinking about sentences with *norm* and derivatives we can observe it easily: ‘Ongoing violence has become the *norm*’ (statistical regularity) and ‘The Council encourages the French authorities to fully respect this *norm*’ (accountability and possible sanctions).

Having analyzed both Brennan et. al.’s and Bicchieri’s concept of norm and having applied it to some examples of civil disobedience, I consider that a broad integrative concept of norm, incorporating both expected statistical regularity and accountability, is necessary in order to work with norms and apply them to civil disobedience studies. Thus, this new concept of norm must:

1. Imply common expectations (and thus, expected statistical regularity). So,

1.a. The agent must expect a particular behavior in most of other agents.

1.b. Other agents must expect a particular behavior in the former particular agent.

2. Imply accountability. So failure to comply with a norm must be followed by a sanction.

In order to get that, we need:

A. To assume that common expectations (both 1.a. & 1.b.) are always necessary in order to get a norm. Note that Bicchieri only states 1.a. as necessary (1.b. was necessary only for social norms, but not for her descriptive norms and her conventions).

B. To assume a broad concept of accountability and sanction, from strangeness, odd looks, gossip, and mistrust, to finally formal penalties and fines.

119. *Norm*, OXFORD DICTIONARIES (3d ed. 2000).