Introduction

Two Philosophical Ideals of Liberal Democracy

When a government declares a state of emergency, it performs two distinct but related actions. In a first instance, the government is signaling that something out of the ordinary has occurred. In a second instance, the government through its declaration gives itself the authorization to act differently than usual. This in the most general sense is what it means to enact a “state of emergency.”

In the case of emergencies occurring in liberal democracies, the government gives itself the authority and the latitude to act in ways and to employ means, normally prohibited in non-emergencies. Governments are the key social actors in such events, as they are the only social actors that can declare states of emergency. In so acting, governments also do something else. Liberal democratic governments that declare states of emergency, alter established expectations about the way liberal democratic governments are expected to act. In what follows, I track changes in these expectations, from a normative perspective. I take it as uncontroversial that a declaration of emergency is a change in the social norms that help define the relationship that exists between citizens in a liberal democracy and their government. Social norms perform many functions in society and the social function that interests me here is the ability of all social norms to generate predictable expectations and to consequently ward off arbitrary actions (Bicchieri 2006). In our everyday transactions with...
our social institutions, we act according to established normative expectations and we expect our institutions to do the same, at least to the extent that institutions as aggregates of individuals can act according to predictable rules and hence are capable of exhibiting a predictable form of social agency.\(^3\)

The expectations that social norms generate, carry both an empirical and a normative component with them. We act in accordance with tacit rules of social behavior that blur the distinction between empirical and normative by generating both formal and informal rules of conduct. We adhere to these rules of conduct (to greater and lesser extents, depending on context) with the expectation that in return, a significant portion of the population will do the same. We stop at red lights when driving, we wait in line to vote, and when asked to justify our behavior, we refer to rules and regularities that are publicly accessible to justify our actions. As social actors, we adhere to general behavioral rules, which are both normative and empirical at once, expecting other actors (in general) to act as we do in relevantly similar social situations. We do not conform to social rules simply for their own sake, but because norms help coordinate our behavior with the behavior of others to produce predictable outcomes, at both the normative and the empirical level. Behavioral coordination of this form creates the expectation that others will follow those same rules and act as predictably as we act and this relation holds even when the “other” in question is the state. Perhaps more importantly, we expect sanctions to befall those who contravene established social rules and often severely reprimand the most egregious rule-breakers among us. Expectations are crucial to living cooperatively in society and behavioral expectations crop up everywhere that social norms exist, even within liberal democratic government. Every social institution makes use of the empirical and normative expectations generated in social actors, by such predictable behaviors. In fact, they could not function otherwise.\(^4\) Moreover, while the normative and empirical elements of that go into social norms can be pulled apart analytically speaking; they

\(^{3}\) Some argue that states cannot be social actors, as only individuals have the capability to deliberate in ways that evince true agency. Against this view, I submit that as aggregations of the deliberations of individual actors, states can (and do) exhibit the required form of social agency.

\(^{4}\) That social norms all exhibit an interconnected hybrid empirical/normative structure is argued extensively and persuasively by Cristina Bicchieri in her *The Grammar of Society: The Nature and Dynamics of Social Norms* (Cambridge University Press 2006). When human action is involved, all the relevant norms are hybrid, in that they involve both empirical and normative aspects irreducibly.