

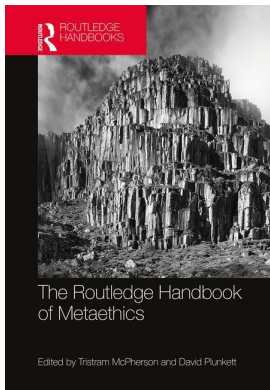
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The Varieties of Normativity

Derek Baker

INTRODUCTION

There are things we *should* do, and other things we *should* not. Some choices are *permitted*, others are *required*, and others are *impermissible*. Some behavior is *appropriate*, some feelings *unwarranted*. Happiness is *good*. Nazis are *bad*. Italian fascists are also *bad*, but Nazis are *worse*. Some think eating meat is *immoral*; others, that mentioning such beliefs in the presence of the Thanksgiving turkey is *impolite*. Double-parking is *illegal*; so is murder, even murder of a Nazi.

We use these terms, in some sense, to tell people what to do, what to think, and how to feel—that is, we use them to prescribe, forbid, and advise. We also use them to praise, censure, and evaluate. Finally, we use them to justify. If I did what I was supposed to, any criticism others might register is off base.

In short, these terms (or their objects) display *normativity*, which more than any other notion organizes the subject matter of metaethics, to the point that some theorists prefer to replace talk of metaethics with talk of the *meta-normative* (Enoch, 2007, 2011). It is not enough that we account for the metaphysics, epistemology, and psychology of morality and our moral judgments. We should aim at offering an account of the metaphysics, epistemology, and psychology of normative phenomena and normative judgments in general.

There are a variety of phenomena that appear to be normative in one way or another, and not always in the same way. The first part of this chapter will start by presenting what I take to be the most fundamental division within the normative: that between merely *formal normativity* and full-blooded *authoritative normativity*. It will then canvass a series of further distinctions within the normative and argue that all of these crosscut the formal-authoritative distinction, which is *sui generis*. The second part of this chapter will present reasons for skepticism about authoritative normativity. This, like most forms of philosophical skepticism, is advocated not so much because the author is convinced;

rather, it is part of the venerable tradition of trying to get philosophers to stop being so easy on themselves.

THE TAXONOMY OF NORMATIVITY

I will assume that normative properties fall into different *normative systems*. There is the system of morality, the system of etiquette, and the laws of the state of California; there is practical reason, epistemic (or theoretical) reason, prudence (or self-interest), and so on. Some of these systems apply to actions (the rules of chess). Some apply to attitudes (epistemic norms apply to beliefs). Some seem to apply to both—morality, for example, prescribes conduct but perhaps also certain emotional responses.

What are these systems? Unfortunately, they may not be the same in every case. Etiquette and the law do seem to be genuine systems of tacit or explicit rules; and normative terms such as “impolite” or “illegal” assert a *relation* between the object of evaluation and the system. But not all systems are obviously so. It could well be that what makes the values, virtues, and prescriptions we call “moral” into a single system, distinct from those values, virtues, and prescriptions we call “aesthetic,” is shared subject matter. But it could also be shared reduction-base or family resemblance. I will assume that we have some intuitive grip of what these normative systems are, and that we are more confident of what kind of normative properties belong to one system or another than of why they belong (for more elaboration, see Foot, 1972; Hubin, 2001; Tiffany, 2007; Broome, 2007; for skepticism about such normative systems, see Thomson, 2008: chapter 10).

As noted, these systems tell you what to do, but they also tell you what to believe and what to feel. I will sum this up by saying that normative systems prescribe, recommend, or evaluate *options*—where these are understood to be broad enough to include possible conclusions, beliefs, or other attitudes, and not just choices.

Formal and Authoritative Normativity

The most important division among normative systems is between those that are inherently significant and those that are not. Following McPherson (2011), I will call this the distinction between *authoritative* and *formal* normativity (similar distinctions are found in Copp, 2004; Broome, 2007; Tiffany, 2007; Southwood, 2008). Formal normativity is the normativity displayed by any standard one can meet or fall short of. The rules of chess are formally normative, as are club rules, ancient honor codes, the law, and the standards of beauty employed by the Miss America pageant.

A person can ignore or even wilfully violate the above standards, however, without any implication that she is guilty of some sort of mistake or that her behavior is in any interesting sense defective. In contrast, consider the requirements of morality, prudence, authenticity, and especially theoretical and practical reason. To ignore or wilfully violate these standards does arguably involve a mistake and behavior (or reasoning) that is defective—though theorists may differ on which of these systems deserve to be excluded.

We could also put the distinction like this: normative facts and properties, in some sense, tell you what to do (or think, or feel). But authoritatively normative facts *really* tell

you what to do. The distinction is also sometimes put in terms of normative properties with *normative force* and those without (e.g. Parfit, 2011: 34–5).

It should be obvious that these statements of the distinction are meant to evoke an intuitive contrast, not as definitions of either class. Some characterizations explain the difference in further normative terms (“mistake,” “defect,” “significant,” “important,” “must heed”). Others characterize the difference simply through emphatic uses of language (“really tell you what to do”), or through metaphor (“normative force”).

This distinction is not helpfully identified with the familiar distinction between categorical and hypothetical imperatives; it certainly cannot be explained by that distinction. In contrast to hypothetical imperatives, categorical imperatives can be identified as those ought-claims that remain valid even when the person to whom we apply them does not care about the ends that complying with the imperative would realize. But on this definition, the rules of chess and etiquette are categorical, though obviously not authoritative (cf. Foot, 1972). Alternately, we could define categorical requirements as those that entail the existence of reasons. On this definition, categorical requirements may well be co-intentional with authoritative ones, but then that is presumably because facts about reasons are unlike most other normative facts—they don’t just tell you what to do, they really tell you what to do! This doesn’t explain but rather presupposes the distinction between formal and authoritative normativity.

In the following subsections, I will consider other natural distinctions in the forms that normative facts and properties can take, none of which are easily identifiable with the formal-authoritative distinction.

The Structure of Normative Systems

Normative claims seem to describe facts or properties that fall into one of four basic structural categories.

Deontic Relations

Within a normative system, certain options are ruled out and others ruled in. For example, certain moves in a game of chess may be better or worse moves, but some are *illegal*. Chess rules them out. To say that one has a moral duty of keeping a promise isn’t simply to say that violating the promise is shabby; it is to say that morality instructs us not to treat this option like a genuine alternative at all. More generally, actions are *right* or *wrong*, *permitted* or *forbidden*, *legal* or *illegal*, *against the rules* or *in accordance* with them; feelings are *appropriate* or *inappropriate*, *correct* or *incorrect*. Beliefs are *justified* or *unjustified*. These types of relations are often described using modal verbs: “ought,” “should,” “must,” and “may.”

Sets of these terms seem to be interdefinable—quite obviously in the case of those terms that are cognates (e.g. “legal” and “illegal”)—but *forbidden* can be defined as that which is *not permitted*, and *required* or *obligatory* can be defined as that which is *uniquely permitted*. This seems to follow from the ruling-out/ruling-in role played by deontic properties.

It should be noted that nothing about these deontic *structures* depends on voluntary control. It may be that talk of *obligations* or *duties* presupposes voluntary control. But this is presumably a feature of moral deontic norms. There is no reason to assume it is a

feature of deontic norms in general. The basic structure of ruling out some responses and ruling others in applies to responses that are not voluntary: our emotions, for example, can be *appropriate* or *inappropriate*, *fitting* or *unfitting*. A standard reason for rejecting deontic understandings of epistemic justification is that beliefs are not subject to voluntary control (e.g. Alston, 2005); but this objection seems to depend on building more into the idea of a deontic structure than is necessary (cf. Feldman, 2000).

Considerations

Not all normative properties or relations imply a binary structure in which some options are ruled out and others ruled in. A standard normative relation is a *consideration in favor of*—the classic case being a *reason*. Rather than establishing that a particular option is correct or incorrect, considerations have a contributory role: they count towards an option being correct or incorrect but are not necessarily decisive. There can be one consideration in favor of continuing to work (*that one would get more work done*, for example) and another consideration in favor of taking a nap (*that napping is pleasant*). In such a case, the considerations are weighed against one another, with one or the other counting for more in determining what the normative system prescribes. In case of many reasons on either side, reasoning about which option is prescribed will require intelligently “adding up” various conflicting and congruous considerations (for more discussion, see the papers collected in Lord & Maguire, 2016).

Having a consideration-structure is not unique to authoritative normative systems. It is true that philosophers use “reason” to label those considerations that are authoritative. But we can talk about reasons of etiquette and reasons of chess without linguistic strain, and it is a live question in metaethics whether moral reasons are reasons *full stop* or reasons possessing and lacking *normative force*. Some obviously formally normative systems have a consideration-structure: the Miss America pageant may work with an offensively narrow definition of female beauty, but it is not so narrow that the judges cannot add up multiple, potentially competing considerations to get a final, overall ranking.

Teleological Structures

Within some normative systems, certain outcomes are identified as *ends*, *goals*, or *aims* to be realized. For example, the rules of chess provide players with the dual goals of checkmating one’s opponent while preventing one’s own checkmate. According to utilitarians, there is a single moral aim: happiness. This end can be described as an *intrinsic good* within the normative system. If utilitarians are right, happiness is the only intrinsic moral good. Admittedly, it sounds strained to call checkmate or victory a good in chess. Yet it would be correct to say that, in chess, checkmating one’s opponent is *better than* a stalemate, but achieving a stalemate is better than losing.

These ends determine which options, traits, resources, and so on are instrumentally valuable in a straightforward way: they are those things that promote the realization of the end. A chess move that increases the likelihood that the player will win is a good move; those traits of his that make him more likely to win against a variety of skilled opponents are good traits in a chess player. If utilitarians are right, keeping a promise is morally good because it contributes to human happiness.

Unlike deontic structures, the evaluations corresponding to teleological structures are not binary but graded (for discussion, see Railton, 1988). Options and outcomes are better or worse. This presumably follows from three features of how teleological normative systems apply to real situations. First, various alternatives can promote an end *more* or *less* efficiently. Thus, instrumental values must be gradable. Second, any system that proposes multiple, potentially competing ends will need some ranking of those ends as better or worse if it is to provide definitive advice in complex situations. Third, the realization of some ends is itself gradable. Whether I checkmate my opponent or not is binary, but happiness can be realized to a greater or lesser extent.

Virtues

Philosophers have proposed understanding both morality and epistemology in terms of *virtues*—stable character traits that produce or prevent certain characteristic effects. The trait of *kindness*, for example, characteristically leads its possessor to act helpfully. *Bravery* characteristically prevents an agent from giving up on important goals out of fear.

Virtues seem conceptually linked to some end that they typically (perhaps necessarily) promote (e.g. Foot, 1994; Thomson, 2008). This seems to follow from the fact that they are defined as dispositions or capacities to produce certain characteristic effects. It is unclear how we could regard these dispositions to produce certain outcomes as *virtues* if we did not regard the outcomes produced as normatively salient as well. Nonetheless, virtues deserve to be treated as distinct structural features of a normative system, because, despite the link to teleological structures, they are not necessarily derivative of such structures. In some cases, they are explanatory of them. Patience is a virtue in chess, because it makes its possessor more likely to achieve the end of chess. But within some normative systems, a certain state may be an end or intrinsic good of that system because it is the characteristic product of a certain virtue. A work of art may be aesthetically superior, for example, in virtue of being the product of the artist's creativity or expressing her skill and talent.

Two points are worth making. First, we have already noted that ends and virtues are conceptually linked. The linkages go further than this, however. Considerations, for example, will be entailed by both ends and requirements. Roughly, if some outcome is an end within a normative system, then any facts in virtue of which response *R* promotes that end will be considerations in favor of *R*. Similarly, if there is a requirement, facts in virtue of which some response satisfies that requirement will be considerations in favor of that response. By the same token, to know that a consideration within some system favors response *R* is to know that, within the system, *R* is good in some way. We can construct teleological or consideration structures out of deontic structures. It may not follow, however, that a required option is always *better* within the relevant system. The system of requirements may be inconsistent, requiring and forbidding the same act. In that case, the option will simply be worthy of promotion, though also worthy of avoidance. It will be an open question whether, in that system, the good of the option outweighs the bad.

Facts about requirements thus imply facts about considerations, ends, and virtues. Does the entailment go the other way? Do facts about considerations, ends, or virtues imply facts about what a normative system requires? There is reason to think that they do not. It may seem that once you know which option there is most reason to take, or which

option is best within the normative system, you know which option is required. But if morally supererogatory actions exist, then there are actions—such as throwing oneself on a live hand grenade to save others—that are morally best and have the most moral considerations in their favor but are not morally required. Chess arguably works this way as well. The rules of chess define what it is to win or lose, and moves can be evaluated in light of that. The rules of chess do not forbid losing, however, and suboptimal moves are not illegal.

These facts about entailments among normative structural kinds still leave open questions about which kinds are more explanatorily basic. Presumably, this will vary with the normative system in question. The law is fundamentally a system of requirements. The norms of chess show an interesting hybrid structure (as do the rules of most games): ends are to be promoted, but within the constraints set by the rules. What is fundamental in morality, epistemology, and practical reason is the subject of systematic normative theorizing in those areas.

The second point to note is that none of these normative structures is *sufficient* for making a normative system authoritative. This is unsurprising if one kind of structural property entails the existence of others (if requirements entail the existence of ends or considerations). But even possessing some structure *fundamentally* is not enough to entail the authority of the normative system. As noted above, etiquette and the standards of judging in beauty pageants are plausibly made up of lots of prima facie considerations that people are supposed to put together into a holistic assessment of what would be polite or of who is most conventionally beautiful. That we can talk about a good knife or a good thief indicates that neither teleological- nor virtue-structures are unique to authoritative systems (cf. Thomson, 2008: chapter 3, 9–10; chapter 5). The rules of games have requirement structures, and these are paradigmatically formally normative systems.

As to whether any of these structural properties—or, more precisely, the normative fundamentality of any of these structural properties—is *necessary* to authoritativeness, this is a substantive philosophical problem. In the debates on the nature of practical and theoretical reason, philosophers have endorsed reasons-fundamentalism (Scanlon, 1998; Parfit, 2011), treating various aims—such as truth, desire-satisfaction, and realizing the good—as fundamental (Velleman, 2000; Alston, 2005; Tenenbaum, 2007; Finlay, 2009) and treating virtues as fundamental (Setiya, 2007). And for Kant, at least, practical reason was a matter of acting according to maxims.

It may be that no fundamental structure is necessary to a normative system's authoritativeness. This would be the case for two or more authoritative normative systems that are structurally unlike. Kieran Setiya (2007) has argued that practical reason cannot be modeled off theoretical reason. Action or intention have no substantive aim, and so practical reason will be, at the normatively fundamental level, a matter of virtues (or “good dispositions of practical thought”); theoretical reason, on the other hand, has a substantive aim of discovering truth.

Some philosophers seem to assume that epistemology must have a deontic structure if it is to succeed in telling us what beliefs to have (see Goldman [1999] for this reading of a number of prominent epistemologists). But, especially in light of the above, it is not clear why this would be so. If epistemology only offered virtues, aims of belief, or considerations, some conclusions would still be epistemically superior to others—or some beliefs would be better or worse justified—even if none were unjustified *full stop*. The thought

may be that instances of theoretical reasoning—attempts to appreciate evidence and arguments—could not be correct or incorrect unless some conclusions were required and others forbidden. That is in some sense, however, the position of the theorist who denies epistemology has a deontic structure: instances of reasoning are *more or less* correct rather than simply right or wrong (cf. Alston, 2005; also, see Railton, 1988, for an analogous position on morality). There may also be a worry that if epistemic normativity only provides evaluations of conclusions but does not forbid some and mandate others, nothing compels us to reach the better-supported conclusions. But nothing compels us to reason well anyway: normative *obligations* can be flouted—and often are—and epistemic normativity, deontic or not, does not generate its own police force.

Procedural and Substantive Norms

Another distinction in normative systems has to do with those that provide substantive prescriptions or evaluations versus those that are purely procedural. The difference can be understood as between those normative systems that tell us to take a certain stance towards the world and its objects, as opposed to those that tell each agent to reach a certain kind of agreement with herself. For example, morality prescribes certain actions, goals, and attitudes. It tells you to keep your promises and refrain from murder. It also tells you not to desire to murder, but it goes on to tell you that even if you do desire to murder, you should refrain anyway. Instrumental rationality, on the other hand, does not mandate any actions or aims at all. It instead tells you how your aims should fit together: for example, you should desire those states that you believe are more likely to promote the satisfaction of other states you desire. But as long as your desires meet *that* structure, the actual objects of your desire are a matter of indifference as far as instrumental rationality is concerned. And insofar as instrumental rationality prescribes actions, these will be those actions that best fit with your desires. Refraining from murder when murder's what you most desire is instrumentally irrational.

The procedural versus substantive distinction is at the heart of debates about the nature of reason, both theoretical and practical. Within epistemology, a central dividing line is between coherentists and foundationalists. Coherentists hold that beliefs are justified by how well they fit in or agree with the rest of one's beliefs. Foundationalists hold that certain foundational beliefs—which are responsible for justifying all others—are justified in virtue of how they relate to the world, either being based on certain forms of evidence, or having certain epistemically privileged content. Within debates about practical reason, the *internalist-externalist* debate about reasons is effectively a debate about whether reasons for action follow from one's practical attitudes—wants, desires, and other motives—plus certain procedural or coherence-based standards that tell us how to derive prescriptions from a given set of such attitudes; or whether certain facts about the world give reason for action (or reason for intention or desire) independently of what agents do or would intend or desire.

It is worth noting a puzzle that arises when one holds that an agent's reasons for action, belief, and so on are substantive and not explained by what would make the agent more coherent or by what follows procedurally given certain prior attitudes. The normative status of rational coherence itself becomes contentious. On the one hand, it is normal to characterize rational coherence in terms of requirements. It seems like a requirement

of rationality, for example, to not believe both p and $\sim p$ simultaneously. It seems like a requirement of rationality that one take the most effective means to one's most highly ranked end. We call people irrational, it seems, because they violate these requirements; and "irrational" seems like a criticism.

But problems immediately arise. First, if rational coherence is normative, then horrible people have very strong reasons to do horrible things. As noted above, it may be instrumentally irrational for some agents to refrain from murder; but the idea that their powerful desires to kill make it true that they *should* murder is bizarre (Broome, 1999). Second, it is unclear why rational coherence would be *that* important. Some of my beliefs are inevitably inconsistent. Who cares? (Kolodny, 2005).

The debate is vast, and most of it is outside the scope of this chapter (for an excellent overview, see Way, 2010). Two potential solutions to the problem are, however, of importance in this discussion. First, it may seem like an obvious solution to propose that rational coherence is normative but only formally so—and a solution along these lines can be found elsewhere (Broome, 2007). Jonathan Way (2010) objects, however, that all the formally normative systems with which we are familiar are contingent normative systems. But the requirements of rationality seem to be necessary, and those necessary norms with which we are familiar seem to all be authoritative. (This objection will be assessed below in a discussion of the distinction between contingent and necessary norms.)

Nicholas Southwood (2008), on the other hand, has argued that rational coherence possesses a distinctive, *sui generis* form of authoritative normativity that neither reduces to nor explains substantive reasons for action or belief. One might wonder how rational coherence could be authoritative without being based on reasons, but it should be kept in mind that the authoritativeness of reasons themselves has never been explained (except in the trivial sense that philosophers use "reasons" to mean those considerations, whatever they are, that happen to be authoritative). It is unclear, then, why special explanation would be called for before conjecturing that other normative systems possess independent authority. To put it another way, "authority" may pick out a disjunction of properties, a point Southwood (2008: fn. 53) alludes to when he mentions the possibility of normative incommensurability between what rational coherence requires of a subject and what substantive reasons for action and belief prescribe.

That said, Southwood's (2008) proposal is inconsistent with a powerful motivation for proceduralist or coherentist theories of reasons—namely, that of giving a reductive account of authority, one that explains authority in terms of our *experience* of certain normative demands as authoritative.¹ Agents who are instrumentally irrational fail to do what they can to make the world as they want it to be. But this means that those who fail to follow the instrumental principle will experience their choices as defective or inferior in a very visceral sense. Possibly this can be generalized. If norms of rational coherence are norms I must follow to be in agreement with myself, then plausibly any violation of them will strike me as a genuine mistake: it is mistaken by my own lights. There are admittedly difficulties here. If I am in disagreement with myself and thus committed to thinking my choice was a mistake, I must also then think it was correct—otherwise, no disagreement. Presumably some attitudes are outliers, and so the overall weight of my perspective will be towards regarding the choice as one or the other. The question is whether this idea can be spelled out in theoretically satisfying detail or left at the level of metaphor.

Neither being substantive nor procedural is *sufficient* to make a normative system authoritative, and whether either half is *necessary* is a matter of philosophical debate—as the debates between coherentists and foundationalists, or reasons-internalists and externalists, demonstrate. It may seem, however, that either one or the other must be a necessary condition on being authoritative, even if we do not yet know which one. But readers should notice that Southwood's (2008) proposal puts even that into question.

Constitutive versus Non-Constitutive Norms

Some norms constitute the very activities, actions, or states that they govern; others do not. The classic example of the former is the rules of chess. For two people to play a game of chess, their moves must conform, at least generally, to the rules of chess. If both players simply flouted or ignored the rules, whatever they were doing could not be regarded as a game of chess.

On the other hand, criminal law is generally not constitutive of the actions it proscribes. One man can kill another in the absence of laws regarding homicide. Law may be constitutive of other actions, however: incorporating a business or voting in an official election, for example.

The distinction is straightforward, but constitutive norms present a mystery. If a system of norms is constitutive of the governed activity, how can it be normative? If we do not follow the rules of chess, we are not playing chess. But if we are not playing chess, the rules do not tell us what to do. On the other hand, if we are playing chess, we are following the rules of chess, so the prescriptive nature of the rules seems otiose.

The solution is to recognize this as an overly strong reading of the idea of a constitutive norm. The claim that the rules of chess are constitutive should not be understood as denying the conceptual possibility of cheating. Rather, moves in a game of chess must *generally* and *for the most part* accord with the rules of chess if they are to count as moves in a game of chess. Cheating must be episodic to be possible. This is also true of sports games, such as football, in which illegal conduct by players cannot be taken back and does not always result in forfeiture of the match; rather, violations of rules are met with penalties. What's more, the referees will not catch every violation. Obviously, in this case, it is possible to have a game in which some actions violate the rules. Nonetheless, if the rules were completely ignored, the resulting activity would no longer count as a football match.

In light of this, we can see how it is not simply deontic normative structures that can be constitutive of their governed object but also teleological structures (Velleman, 2000; Korsgaard, 2008). The function of a heart is to pump blood; the aims of chess are to checkmate one's opponent and avoid being checkmated. But this does not mean that with a heart attack the muscle tissue in one's chest ceases to be a heart, nor that with an inept queen sacrifice one has ceased to play chess. It means that making a series of "moves" that are legal but otherwise chosen at random, without any discernible aim of advancing victory or forestalling defeat, does not count as playing chess. Likewise, a heart has many structural components working together, and some may remain conducive to pumping blood while others are defective in some way. It is only if many aspects of the organ are defective that it ceases to be a heart and is instead a pulpy mass or tumor where a heart should be. (Admittedly, there will be vagueness about where the cut-off point between heart and tumor belongs.)

One may object here that the constitutive relation so described is a very weak relation. But this is not an objection if such a weak relation exists, though it may be grounds for objecting to attempts to use the constitutive relation to *explain* authoritative normativity.

It may seem that being constitutive is not sufficient for being authoritative, since the rules of chess are both paradigmatically constitutive and formal. But this overlooks a possibility: the rules of chess are authoritative *for chess*. There is no authoritative requirement that I play chess, but if I am playing chess, then questioning the authority of its rules makes no sense: I am committed to these rules in virtue of my activity. Now, I can escape this authority by avoiding the game in the first place. But if there are activities that I cannot avoid—if, by analogy, there are constitutive norms of action or belief—these will be authoritative and inescapably so (Korsgaard, 2008).

There are reasons why we should be sympathetic to this constitutivist strategy for explaining normative authority—most notably, it would be an *explanation*. However, the weakness of the constitutive relation makes it doubtful it could bear the requisite explanatory weight. Returning to the chess example, the intention of playing a game of chess does not commit me to following the rules of chess *simpliciter*. Rather, it commits me to following the rules *enough* (Dreier, 1997).² So the authoritative prescriptions we can derive from the constitutive nature of the rules of chess seem only to prohibit *excessive* cheating.

Following the analogy, insofar as I act or form beliefs, I am committed to responding to reasons for action or reasons for belief to a degree sufficient that I count as an agent. But this is consistent with ignoring such reasons, so long as I don't cease to be an agent—which is no danger for all but the extremely mentally ill (cf. Kolodny, 2005: 545).

What is more, this all seems to assume that I *should* aim to be an agent. But that “should” must be authoritative if it is to explain the authority of meeting those requirements instrumental to being an agent. But then we have assumed, rather than explained, authoritative normativity (cf. Enoch, 2006). Finally, the constitutivist strategy seems to conflate normative with psychological inescapability (e.g. Enoch, 2006).

Necessary versus Contingent Norms

Normative facts can either be necessary or contingent. For example, most philosophers have held that moral truths are necessary (but see Harman, 1975). It may be that whether a particular act of lying is wrong is contingent—but this is because of the contingent circumstances in which the act is performed. Specific moral prescriptions derive, however, from more general moral principles that hold necessarily. If lying in these circumstances is wrong, it could not be that lying in these circumstance could have been right. On the other hand, the laws of the state of California are contingent. They may forbid smoking in bars, but they could have allowed it and even did at one point.

Notice that some normative systems can be grounded in social convention and yet still apply necessarily to the activities within their “jurisdictions.” Obviously, the state of California can survive changes to its legal code. But would a game in which the knight could move diagonally still be chess? Not if the rules of chess are constitutive of the game. So if there are constitutive norms, they apply necessarily to the activities they govern. Constitutive normative systems are trivially necessary.

Consequently, that a normative system is necessary does not imply that it is authoritative. Way (2010) claims that all familiar cases of formal normativity involve contingent

normativity. But this is a mistake. As the case of chess shows, constitutive rules necessarily apply to instances of the constituted activity, and constitutive rules can possess only formal normativity. This is not a narrow point. As noted earlier, Way uses the claim that necessary normative systems are authoritative to argue against Broome's (2007) suggestion that rational coherence might be merely formally normative. But rational coherence is plausibly constitutive of agency (Davidson, 1985), and thus we would have an explanation of its necessary character that made no appeal to authoritativeness.

Can contingent norms, on the other hand, be authoritative? Possibly. Perhaps I can form personal, existential commitments to certain otherwise formally normative rules or ends, making them authoritative for me (see Frankfurt, 1999; for positions in the neighborhood, see Chang, 2009). There is natural pressure, of course, to explain the authority of such commitments in terms of some necessary normative system. Practical reason, for example, might prescribe sticking by prior commitments, all else being equal. Thus, it is not really a case of a contingent yet authoritative norm but of the application of a necessary normative system to contingent circumstances.

But perhaps this misrepresents the phenomenon. Harry Frankfurt (1999) argues that we do not experience the normative authority of personal commitments as deriving from the impersonal authority of reason but as something potentially in conflict with reason. Again, as with Southwood's (2008) proposal about rationality, this seems to imply that *authority* itself names a disjunction of properties: there are in fact distinctive kinds of authority. Given that 'authority' is a placeholder for a set of connected but admittedly obscure phenomena, we should not rule this possibility out, though it risks making our theories less parsimonious.

SKEPTICISM ABOUT NORMATIVE AUTHORITY³

There are reasons for skepticism about the existence of normative authority. It is not simply that it is unclear what would explain authoritativeness. This is not any different than any other area of philosophy (claims about what explains intentionality or even the existence of everyday composite objects are hardly uncontroversial)—and in any case, authority could turn out to be a non-natural property. In fact, the non-naturalist intuition that the normative is “just too different” from the natural to be a special instance of it (Enoch, 2011; see also Parfit, 2011) is plausibly intended as a claim about those normative facts with the obscure property of *really* telling people what to do (cf. Tiffany, 2007: 259–60).

The problem rather derives from the obscurity of what is meant by “authority.” We had to indicate what we were after by using “really,” not in the sense of genuineness but in that special sense that is only conveyed through italics, scare quotes, or table-thumping; or else we had to resort to metaphor (“grip,” “normative force”), which remains unpacked. Of course, we should be careful here—the demand that we unpack our metaphors or table-thumps can sound like the demand for a definition of “authority” *in advance of our theory of it*, and this would make all theorizing impossible. The metaphor and italics were not a definition; they were to help us catch on. “Authority” is a term of art, but it is drawing a distinction we were already implicitly aware of in practice—or so the non-skeptic can claim.

There are more specific reasons for the skepticism, however. First, it is easy to offer a debunking account of our intuitions of authority. This argument follows Mill's (1863/1998)

argument explaining our sense that certain moral requirements are in some sense *necessary*. Growing up, we face punishment and social sanction for ignoring certain kinds of norms but not others. We internalize this compulsion and come to associate it with the relevant normative standards. These standards do not have any authority themselves (because there could not be such a property), but we naturally come to project our own subjective feelings of being compelled onto the objects that excite such feelings. It is worth noting that our ways of indicating the phenomena of authoritativeness used metaphors of compulsion like “getting a grip on us” and “normative force” (also see Foot, 1972: 308 ff.).

Second, it is not at all clear that what’s being called “authority” is really the same property in every normative system. Morality is intuitively authoritative, as is epistemology. But consider the “force” of morality. It seems tied to a number of very hot emotions, such as anger, guilt, disgust, shame, pride, and compassion. In the case of epistemic norms, on the other hand, the “force” feels quite different. It is simply psychologically very difficult for us to bring ourselves to believe what we acknowledge to be badly supported by evidence. Aesthetic norms are plausibly authoritative, but in a still different way: one is missing out, and is perhaps a little annoying, if one is insensitive to them. Prudence is authoritative, but that seems to be in the sense that one ignores it at one’s own peril. We already saw as well the suggestion that norms of psychological coherence and personal commitment possess distinctive forms of authority, different from that possessed by substantive reason. We could finally add that while it is generally treated as merely formally normative, someone facing a life sentence could be forgiven for thinking the law authoritative. The plethora of plausibly authoritative norms, the dissimilarities in their phenomenology, and the presence of borderline cases all give reason to doubt that there is any single phenomenon of authoritativeness at work here; rather, we face a host of formally normative systems, each with its own different form of psychological or sociological *relevance*. Evan Tiffany (2007) calls this position *deflationary normative pluralism*.

Notice that both arguments explain our sense that certain norms are authoritative in terms of psychological reactions. Some inchoate sense of this possibility is probably a motivation for various forms of subjectivism, response-dependence, and expressivism about authoritative normativity. This would be an instance of the standard strategy of answering skepticism with some form of idealism or deflationary (quasi-)realism about the subject matter—that is, answering skepticism about a target phenomenon by making it ontologically dependent on our responses to it or, in the case of quasi-realist forms of expressivism, denying that any standpoint from which we could question the reality of phenomenon is possible (on semantic grounds).

The idealist maneuver may be supported in this particular case by more than just epistemic worries. Critics have complained that, besides the standard worries—epistemic and metaphysical—that accompany any form of non-naturalism, in the normative case positing non-natural properties is objectionable because it is beside the point—a kind of non sequitur (Jackson, 1998; Korsgaard, 2003). Non-naturalism, it seems, contributes nothing to understanding the authoritativeness of certain forms of normativity. On a stone tablet it is written, *thou shalt not kill*. It tells me what to do, but so what? Well, let’s add that the tablet is not in fact stone but is actually made of immaterial Platonic ether existing eternally outside space and time. But again, so what? Stone tablets are arguably *more* imposing: immaterial ether never smashed anyone’s head. Simply positing non-naturalness does nothing to explain how these norms succeed in *really* telling us

what to do. The idealist maneuver looks more attractive in the light of this worry, because it can seem that there is no “force” a normative system could possess save the impact it has on agents’ psychologies.

There is a third reason for skepticism about normative authority, for which idealism looks less relevant as a reply. It is very hard to communicate what the term “authority” is supposed to refer to without falling into inadvertent and seemingly vicious circularity. Let’s say morality is authoritative and etiquette is not. Let’s say further that in this case they conflict: the first telling me to confront my host’s racist bile, and the second to change the subject. It is natural to think that the authoritative prescription *overrides* or *trumps* the merely formal prescription. But what does this mean? Given our stipulation, it does not mean that the action is not impolite.

It is very natural to say that this talk of overriding or trumping means the demands of morality are *more important* than those of etiquette, or that one ought to listen to morality rather than etiquette, or that it is much *worse* to be immoral than rude. But these are all normative characterizations—and from what system do these evaluations come? If the only way of characterizing normative authority is in further normative terms, then we are not characterizing anything at all. Merely formal systems will endorse themselves (or at least some will) or will be endorsed by some other merely formal system. Etiquette presumably requires that I heed the prescriptions of etiquette. But then it follows that the fact that one ought to obey the ought of system A rather than the ought of system B does not imply that system A has any special feature at all—certainly nothing that could be unique to authoritative systems (cf. Copp, 1997: 101 ff.).

All of this is to say that we need some other way of saying what it is for one normative system to trump another; or we need some other way of indicating the phenomenon we have in mind. Otherwise talk of *normative authority* is among that class of confusions which Lionel Trilling, in a different context, named “irritable mental gestures which seek to resemble ideas (Trilling, 1950).”

There is admittedly an assumption in the above that all prescriptions are system-relative, but it isn’t clear that this is avoidable.⁴ Consider the idea of an *all-things-considered ought*. At first glance, this ought is issued from a particular normative system, albeit one that takes the verdicts of certain other normative systems as inputs. But it is unclear how this latter fact would help us characterize what the authority of the all-things-considered ought consists in. Perhaps there is a better way of characterizing the all-things-considered ought, but what?⁵

This skepticism is different, because it doesn’t challenge our justification for believing in authority. It challenges whether we are justified in believing we possess a coherent concept corresponding to this term—that is, whether we ever really were implicitly aware in practice of any distinction that the term is supposed to make explicit.

I want to conclude with two brief points about another possible response to skepticism about authority—namely, error-theory about normative authority. Is this something we could live with?

We could still admit a wide range of normative facts. There are the rules of chess, the reasons of epistemology, the demands of morality, and so on. We can still tell people that murder is wrong. We can still debate whether acting wrongly could ever be reasonable and whether the reasonable reduces to the rational. We can worry about the reduction-base of various normative systems. Some normative systems could turn out to

be constitutive of agency. Some may be written on tablets of Platonic ether. These would be philosophically interesting properties. What none of them should be identified with, however, is any sort of normative superiority (Tiffany, 2007). *Superiority*, after all, is a normative notion, and so it must be system-relative. If reason and morality conflict, then the virtuous man will be a fool and the wise man will be a sinner. But which is worse? Well, morally it is worse to be a sinner, but from the point of view of reason it is worse to be a fool (Hubin, 1999).

This all seems fine until I am trying to deliberate about what to do. Should I be wise? Should I be good? Perhaps that question can only be settled arbitrarily. But does that mean I *should* settle the question arbitrarily? Well, the answer is obviously *yes*. What worries me is that it's just as obviously *no*.

NOTES

1. This is inspired by the accounts of practical reasons found in Hubin (1999) and Street (2008, especially pp. 239–42).
2. Note that Dreier does not take this objection to be decisive. His answer, however, is outside the scope of this chapter.
3. Beyond specific points or arguments, the general concerns of this section I owe in large part to Copp (1997, 2004), Hubin (1999, 2001), and Tiffany (2007).
4. Thanks to Matti Eklund for pushing me to address this point.
5. Or see Thomson (2008: chapter 10) for a rejection of system-relative prescriptions, precisely because their existence would seem to open up problems such as this one.

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