

# Authoritatively Normative Concepts<sup>\*</sup>

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DRAFT of August 2016 for the *Chapel Hill Metaethics Workshop*  
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## Note to CHillMeta readers:

You have a lot to read, and probably not enough time. If this is on your 'quick read' list, you could probably get a decent orientation to what I am up to by reading §2.

## Abstract:

This paper aims to provide an illuminating explication of one authoritatively normative concept: PRACTICAL OUGHT. I propose that this concept can be fruitfully analyzed in terms of the constitutive norms for a distinctive deliberative activity: *resolving conflict among norms*. I argue that my analysis permits an attractive and substantive explanation of what the distinctive normative authority of this concept amounts to. I briefly show how my account can answer 'schmagency'-style objections to constitutivist explanations of normativity. Finally, I explain how the explication can be used to help realists, error theorist, and fictionalists address central challenges to their views.

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<sup>\*</sup> I am indebted to Derek Baker, Garrett Cullity, David Faraci, Sarah McGrath, David Plunkett, and Michael Smith for illuminating comments and to audiences at the Melbourne Moral Rationalism Workshop, the Australasian Annual Workshop in Moral Philosophy, the Hong Kong Metaethics Workshop, University of Kentucky, the Virginia Tech philosophy faculty reading group, Ohio State, the CRNAP Varieties of Normativity Workshop at Princeton, and the Varieties of Normativity Workshop at Uppsala for helpful discussion (and incisive criticism) of ideas that went into this paper.

## Introduction

There are many species of norms. For example, an act can be an illegal chess move, and impolite to boot, but still morally required. And there are famous philosophical puzzles about the *generic* normativity shared by all of these species.<sup>1</sup> For example, Saul Kripke's Wittgenstein (1982) famously challenged our ability to explain how someone could count as following one norm rather than another. However, metaethicists have not typically focused on understanding normativity in this generic sense. This is not particularly surprising: puzzles about generic normativity arguably do not cut to the heart of the metaethical dialectic. For example, many of the most influential classes of views in metaethics – non-naturalism, expressivism, error theory, and fictionalism – are not attractive views about merely generic norms like the norms of chess. Because of this, consensus that a sophisticated reductive naturalism (say) could answer Kripke's Wittgenstein would not radically alter the metaethical terrain.<sup>2</sup>

Work in metaethics has instead focused on moral normativity, or – increasingly – on *practical normativity*.<sup>3</sup> What is this latter notion? Quick glosses usually focus on two ideas. The first is a contrast with morality: sometimes one has a choice where morality is silent, but it seems nonetheless clear that one option is *better* than the other. For example, suppose that I have no morally significant options, but can choose whether to spend the afternoon in pleasant conversation or counting blades of grass. In this case I *ought* to choose conversation, or at very least, I have *more reason* to do so than the latter. The second is the idea that practical normativity is distinctively *authoritative*. The practical norms are the

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<sup>1</sup> The 'generic' label is from Copp 2005a. I previously called this sort of normativity 'formal' in my 2011. I now think Copp's term is more apt.

<sup>2</sup> For a discussion that usefully and sharply distinguishes the task of explaining authoritative normativity from that of explaining normativity per se, see FitzPatrick 2008. Gibbard 2012 takes the core issues at stake in metaethics to carry over at least to semantic norms. In this respect, the project of this paper sides with FitzPatrick against Gibbard. For an important and to my eye decisive challenge to Gibbard's attempt to extend his 'what's at issue' master argument to meaning, see Baker *Ms*.

<sup>3</sup> In the text, I use 'metaethical' in a sociologically familiar but very loose sense. McPherson and Plunkett *forthcoming-b*, helpfully distinguishes the *metaethical* project (which, roughly, takes as its focus norms that govern how to live), from the *metamoral* project (which, roughly, takes as its focus morality narrowly construed) and the *narrow metanormative project* (which, roughly, takes as its focus authoritative normativity, whatever their scope and content). This paper aims to contribute to the metaethical and narrow metanormative projects, so understood.

ones that *settle what to do*, in a way that somehow contrasts with the deliverances of etiquette (for example).

These glosses, however, merely orient us to what we should seek to understand. My aim in this paper is to provide an illuminating explication of one authoritatively normative concept: PRACTICAL OUGHT. (I use small caps to denote concepts.) My explication (§§2-3) proposes to illuminate this concept by connecting it to a distinctive deliberative activity: resolving conflict among norms. I argue that the concept PRACTICAL OUGHT can be analyzed in terms of the constitutive norms for this activity. I then show that my analysis permits an attractive and substantive explanation of what the distinctive normative authority of this concept amounts to. I briefly show how my account can answer ‘schmagency’-style objections to constitutivist explanations of normativity (§4). Finally, I briefly sketch some of the central metaethical implications of my account, showing that it can be used to help realists, error theorist, and fictionalists address central challenges to their views (§5). I begin by more carefully introducing the concept that I intend to analyze.

### 1. Elusive practical normativity

In the Introduction, I briefly gestured at the notion of authoritative normativity. Because this notion is central to my project in this paper, it will be helpful to re-introduce it more carefully. To begin, consider the following deliberative scenario:

**Sticky Situation** You find yourself in a sticky situation. You conclude that morality requires you to stay and help, while prudence dictates that you take the money and run. Torn, you ask yourself: *given all of this, what ought I to do?*<sup>4</sup>

Sticky Situation concludes with an interesting question, about which you might agonize. Because of this, it is implausible to read ‘ought’ in this question as expressing<sup>5</sup> either the concept MORALLY OUGHT, or the concept PRUDENTIALY

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<sup>4</sup> My initial characterization and discussion of Sticky Situation, is strongly indebted to Wedgwood 2004, 406, who in turn credits Cullity and Gaut 1997.

<sup>5</sup> I use *expression* throughout to describe the relation between linguistic tokens and the mental states they are conventionally associated with solely in virtue of the meanings of those linguistic tokens. In doing so, I commit myself to the (plausible but admittedly controversial) idea that the meanings of (some) linguistic tokens entail such a connection to contentful speaker mental states. I do *not* intend

UGHT. For you already take yourself to know the answer to the question, understood in those ways. (Note that the answer you take yourself to know might be *incorrect*: perhaps morality and prudence *cannot* conflict. But this does not undercut the intelligibility of someone thinking that they can conflict, and posing this question in light of the perceived conflict.)

It is natural to step back from the specific question highlighted in Sticky Situation, to query the normative significance of conflict between morality and prudence more generally. Here, one familiar view is:

**Moral Rationalism** If moral requirements and prudence conflict, one *ought* to do the morally required thing.<sup>6</sup>

Whether or not it is true, Moral Rationalism appears to be an interesting and substantive thesis. The upshot is the same as in Sticky Situation: if we interpret ‘ought’ here as expressing MORALLY OUGHT, Moral Rationalism is a trivial claim; if we interpret it as expressing PRUDENTIAL OUGHT, it is instead trivially false.

In both Moral Rationalism and Sticky Situation, it seems most plausible to read ‘ought’ as expressing a concept that purports to wear a distinctive normative authority on its sleeve, in a way that even moral and prudential ‘ought’s do not. For example, if Moral Rationalism is intended to be non-trivial, then the ‘ought’ used in this claim must refer to a concept that is more transparently authoritatively normative than MORALLY OUGHT. It will be useful to have a label for this distinctively authoritatively normative concept: *PRACTICAL OUGHT*.

PRACTICAL OUGHT is part of a family of purportedly authoritative concepts, which range across various dimensions of normative structure. Thus, just as we can talk of a range of narrowly *moral* concepts: MORAL REQUIREMENT, MORALLY BETTER, MORAL REASON, etc., we could talk about their explicitly authoritative correlates: PRACTICAL REQUIREMENT, PRACTICALLY BETTER and PRACTICAL REASON. The last of these is arguably the most infectious contemporary locution for

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the more controversial thesis that the meanings of linguistic entities are, or are grounded in, their conventional relation to contentful speaker mental states.

<sup>6</sup> For discussion of related principles, see Smith 1994, Darwall 1997, van Roojen 2010, Lord and Plunkett *forthcoming*, and several of the papers in Jones and Schroeter *forthcoming*.

gesturing at authoritative normativity.<sup>7</sup> In this paper, however, I will focus almost exclusively on PRACTICAL OUGHT, leaving aside the important question of how the account I offer could be extended to other members of the family of authoritatively normative concepts.

Authoritatively normative concepts are an especially natural locus for metaethical enquiry. Suppose on the one hand that Moral Rationalism (or something like it) is true. Then it would be very natural to expect that an account of the authoritatively normative concepts or properties will be crucial to understanding moral thought, talk, and reality. Suppose on the other hand that the normativity of morality turned out to be just like the normativity of chess or etiquette. Then there would be little reason to think that morality raises *distinctive* metaethical puzzles. For this reason it is not surprising that over the past generation, the focus of metaethical work has shifted significantly from morality to what I am calling authoritative normativity.<sup>8</sup> In shifting focus, metaethicists are trying to grapple with the core question: what is the nature of authoritatively normative concepts, or of the properties that they pick out?

The nature of the authoritatively normative concepts can seem elusive, however. This can be illustrated by considering four *unfruitful* attempts to illuminate them. First, notice that one cannot illuminate authoritatively normative concepts *generally* simply by analyzing one member of the family of such concepts in terms of another. For example, even if it were possible to do so, it would not suffice to analyze all other authoritatively normative concepts in terms of PRACTICAL REASON. This is because the core question here is about what is distinctive of the whole family of authoritatively normative concepts, or – if inter-normative conceptual analyses are possible – whichever of these concepts are conceptually basic.

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<sup>7</sup> Contemporary philosophers very often deploy locutions that are plausibly intended to convey the distinctive authority characteristic of this family of concepts: compare Scanlon's talk of reasons in the 'standard normative sense,' (1998, 17-19), Schroeder's 'normativity of the normative' (2007, 79), and Hampton's talk of 'normative authority' (1998, 85ff) which my talk of 'authoritative' norms echoes. In conversation – if less often in print – philosophers will speak of 'genuine normativity' or normative 'oomph'.

<sup>8</sup> Leading examples include Bedke 2010, Gibbard 2003, Schroeder 2007, Street 2008, and Wedgwood 2007.

Second, it would be a mistake to gloss authoritativeness as *categoricity*, where a norm is categorical if you cannot escape its application simply by changing your desires or intentions. Categoricity appears neither necessary nor sufficient for our understanding of authoritativeness. Its insufficiency was well-established by Philippa Foot (1997). The norms of etiquette are categorical in the sense just mentioned: indifference to these norms does not make their violation any less impolite. Its necessity is rendered doubtful by the Humean research program, according to which facts about authoritative normativity are grounded in facts about agents' contingent desires. If categoricity were central to our understanding of authoritativeness, most forms of Humeanism would be guilty of a transparent category mistake, which is hardly plausible.

Third, in order to mark a contrast with norms like etiquette, Derek Parfit contrasts normativity in the 'rule-implying' sense, with normativity in the 'reasons-implying' sense (2011, §88), where the latter is his way of adverting to what I am calling authoritative normativity. But this is potentially misleading: there are lots of ways of using 'reason', many of which fail to be transparently authoritative. one can talk about *moral* or *aesthetic* reasons, or *reasons of etiquette* all of which are manifestly generically normative, but none of which is *obviously* authoritatively normative. In these cases, 'reason' is best understood as adverting to a certain kind of normative structural kind, which can have instances across both authoritative and merely generic normative systems.<sup>9</sup>

Fourth, Ralph Wedgwood glosses our target concept as the 'all-things-considered' ought (2004), but this is potentially misleading in the same way. The locus classicus for 'all-things-considered' talk is Donald Davidson's discussion of weakness of will, which contrasted the judgments that X is better than Y *simpliciter*, with the judgment that it is better *prima facie*, and that it is better *all-things-considered* (2001 [1969]). The most important point is that Davidson's contrast here is again *structural*: the simpliciter/prima facie/all-things-considered

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<sup>9</sup> I do not deny that there is a reading of 'aesthetic reason' (for example) as meaning something like *a reason simpliciter that has an aesthetic basis*. I only mean to insist that 'reason' is also used in careful philosophical contexts with the structural meaning (for one example, see the discussion of moral rationalism in Lord and Plunkett *forthcoming*).

contrast will show up within moral judgments, prudential judgments, even within chess judgments. For example, one might say, (pedantically), “Weaknesses around white’s king *prima facie* supports mounting an attack there, but in light of the concentration of my pieces, and the open c-file, it is better all-things-considered to secure strategic advantages on the queenside instead.” Here ‘better all-things-considered’ is most plausibly read as a claim internal to the norms of chess.

As these examples show, common attempts to provide an informative gloss on the notion of an authoritatively normative concept appear to fail. At this point, an objector might express bafflement, and claim that she has no idea what is being gestured at with talk of ‘distinctively authoritative’ normativity. She might point out that the term ‘authoritative’ is so far simply a label, and should in no way convince us that we have a grip on the alleged concept being deployed. She might continue: morality is distinctively *morally* authoritative, prudence is distinctively *prudentially* authoritative (etc.), and there is no other coherent notion of authority which can be used to give us purchase on PRACTICAL OUGHT. This might lead her to suggest that philosophers’ attempts to discuss authoritative normativity simply fail to latch onto a genuine concept. Call this view *deflationary pluralism* about normative concepts.<sup>10</sup>

The cost of deflationary pluralism is high, however. It appears to deny that Sticky Situation raises an interesting question and that Moral Rationalism is an interesting thesis. And it suggests that the range of central metaethical views mentioned in the Introduction – non-naturalism, expressivism, error theory, and hermeneutic fictionalism – are confused at a fairly fundamental level, if (as I suggested) they are often tacitly motivated in part by the thought that metaethics has authoritative normativity as its explanatory target.

In light of this, one might claim instead that the elusiveness of authoritative normativity is explained by *concept primitivism*. On this view, perhaps some authoritatively normative concept can be analyzed in terms of another, but the fundamental authoritative concept is itself unanalyzable: we can use our competence with the concept to gesture at its distinctive nature, but

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<sup>10</sup> This view is related to, but not identical to the ‘deflationary normative pluralism’ discussed by Tiffany 2007. See also Copp 2005a, 2005b and especially Baker *this volume* for relevant discussion.

ultimately nothing non-circular can be said to illuminate its distinctively nature (compare Scanlon 1998, 17 on reasons).

Positing a primitive concept in the face of this puzzlement is philosophically dissatisfying, however. It perhaps pairs best with a non-naturalist metaphysics: on this view, the apparently distinctive nature of authoritatively normative thought is that it – and it alone – is *about* a sui generis, distinctively normative part of reality. But it is unclear how illuminating this proposal could be: one worry is that our only way of understanding the idea that this bit of reality is distinctively *normative* is that we talk about it using these concepts.<sup>11</sup>

This motivates the project of seeking to provide an informative characterization of the concept PRACTICAL OUGHT, despite its elusiveness.<sup>12</sup> There are many possible ways of approaching this problem. Consider just one example that contrasts with the project of this paper: one sort of non-cognitivist has an interesting way of sharply drawing the contrast between authoritative and merely generically normative thought. On this account, chess-normative thoughts (e.g.) are ordinary beliefs, made true by the conventions that constitute the rules of chess. By contrast, an agent's authoritatively normative thoughts might be claimed to be distinctively normative in virtue of being constituted by certain non-cognitive states. Assessing this sort of non-cognitivist view is far too large a task to undertake here. I mention this example only to emphasize that the broad goal of providing an informative characterization of the concept PRACTICAL OUGHT that explains its distinctive normative significance can be pursued within a variety of metaethical research programs. With that caveat in mind, I now begin to explain my own approach to this project.

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<sup>11</sup> For important discussion of the underexplored question of whether the normativity of our concepts is parasitic on the normativity of the reality they represent – or vice-versa – see Eklund *forthcoming*.

<sup>12</sup> It is worth highlighting a crucial assumption that I will not defend here: that the role of the term 'practical ought' should be explained by the nature of the concept it expresses, and not by facts about the pragmatics of its use; see Finlay 2014, Ch. 7 for useful discussion relevant to the latter explanatory strategy.

## 2. Aims, resources, and ambitions for the account

My overall ambition in this paper is to provide an account of the concept PRACTICAL OUGHT that illuminates the distinctive normativity of that concept. My approach is motivated by the idea that such an account can be developed by reflecting on cases like Sticky Situation: the very cases that provide us with our grip on the concept in the first place. This section provides three preliminary elements of my account. It clarifies how I understand the aims of my project, and explains the way that my project draws on familiar constitutivist resources. It then provides an intuitive gloss on the positive account to come, to orient readers prior to the more detailed exposition of §3.

### 2.1 My aims

Because I am offering an account of the nature of a concept, and such accounts are quite generally subject to familiar and intense philosophical controversy, I begin by saying a little about how I understand this project. I have sought to locate the concept I am interested in discussing – the PRACTICAL OUGHT – in part by adverting to a kind of thought that most of us recognize (for example, in Sticky Situation) and to familiar moves in ethical theorizing (for example debates about Moral Rationalism). However, it is not at all obvious that there is any word in non-philosophical English that uniquely picks out this concept. In light of this, I take myself to be discussing something very close to a technical philosophical concept. Accounts of a technical concept should be evaluated against the role that concept is apt to play in theoretical (and in this case deliberative) contexts.

In light of this gloss on the nature of my project, I take it to be compatible with competing broader views about the methodology for investigating our concepts. For example, on the ambitious approach to conceptual analysis championed by Frank Jackson (1998), these facts will count as wholly compatible with my account being a conceptual analysis. Alternatively – and this is closer to my way of thinking about the matter – it could be developed to be compatible with the sort of ‘reforming definition’ approach defended by Peter Railton (1989). Here the idea is, roughly, that the correct account of PRACTICAL OUGHT is the one that

best articulates and refines the most theoretically important elements of our conceptual practice. (For more discussion of relevant methodological complications, see McPherson and Plunkett, *forthcoming-a*.)

As I understand it, the core task facing such an account of the concept PRACTICAL OUGHT is to permit a characterization of the distinctive normative purport of this concept. Further, I take it that both the analysis of this concept and the account of its normative purport should be non-circular, informative, and plausible. The analysis and account should also be distinctive, in the sense of identifying features that are not shared by merely generically normative concepts. I do not, however, aim to characterize the concept PRACTICAL OUGHT in wholly *non-normative* terms. I will not precisely explicate the idea of a generically normative concept, and I will make use of generic normativity in my analysis. As I suggested above, the distinctive challenge of the *metaethical* project as I understand it, arises with moral or authoritative normativity. Because of this, while engaged in that project, I take myself to be entitled to use generically normative despite the deep philosophical puzzles that attend those resources.

## 2.2 Constitutivist resources

My account is a kind of constitutivism, because it appeals to the contrast between the norms constitutive of certain activities, and merely generic norms. To see this contrast, consider the following norm, which I hereby introduce:

**Touch Nose Move** You must touch your nose while playing any chess move.

To be clear, this is neither an interpretation of, nor a proposed amendment to, the rules of chess. Nor is it an (absurd) claim about your moral, prudential, or authoritative obligations. It is introduced as an independent norm. It is generically normative: it is a standard that actions can clearly meet or violate. Indeed, it is clear what it takes to abide by it or violate it: if you play chess moves without a hand on your nose, you are violating it.

What then is the contrast between merely generic norms and the constitutive norms for an activity? In my view, the answer is that the constitutive norms for an activity fix whether one performs that activity correctly or

successfully, not merely relative to some norm or another, but relative to the very activity one is engaging in.<sup>13</sup> Consider examples: if, while playing chess, you move a knight diagonally, you violate the rules for the movement of the pieces, and hence play incorrectly. If you play correctly, but get checkmated, you have thereby played unsuccessfully. By contrast, because the Touch Nose Move norm is a merely generic norm, and not constitutive of the activity of playing chess, there is a natural sense in which one does not play chess *incorrectly* or *unsuccessfully* in virtue of violating it.

To bring out the significance of this contrast, suppose that I clearheadedly intend to play chess. Suppose next that while doing so, I routinely make moves without touching my nose, and you point out that by doing so, I violate the Touch Nose Move norm. It seems that without any confusion I might simply note that I don't care about that. Suppose by contrast that I move a knight diagonally, and you point out that this violates the rules of chess. I might reply in all sorts of intelligible ways: I might decide that I am not playing chess after all; I might evince confusion about the rules of chess; I might accept the correction to my play, etc. But it would be puzzling for me to say that I *am* playing chess, but I simply don't care about playing according to its rules. It would become tempting to impute some rational failing to me if I were to say this: perhaps a failure to understand what it is to play chess. The precise nature of the criticism that is warranted here is controversial. My aim here is only to establish that, insofar as one is engaged in an activity, the constitutive norms for that activity appear to have a kind of grip on one that the merely generic norms lack. And this grip is naturally understood as marking an asymmetry in the *normative significance* of constitutive norms, compared to merely generic norms.

This asymmetry is the core insight that has launched a thousand constitutivisms. But of course, by itself this is not enough to explain the distinctive normativity of the concept PRACTICAL OUGHT. After all, the contrast does not entail that if one engages in an activity like chess, one practically ought to follow its constitutive norms, or even that one necessarily has any practical reasons to do so.

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<sup>13</sup> For a different analysis of what is distinctive of constitutive normativity, which focuses on constitutive *aims*, see Katsafanas 2013, 39.

To make this vivid, suppose that someone invented a game in which players compete to torture a puppy in the most awful way possible. Finding oneself playing this game surely does not entail that one ought to torture a puppy. At least intuitively, it does not even entail that one has a reason to torture a puppy.<sup>14</sup> The additional task that constitutivists face is to identify the added ingredient that, when combined with the constitutive element, will yield authoritative normativity.

What ingredient must be added here? Perhaps the most familiar proposal is that the authoritative norms are norms for an activity that is in some sense *inescapable*. As Christine Korsgaard memorably puts the idea, “Human beings are *condemned to choice and action*” (2009, 1, emphasis hers; see also e.g. Ferrero 2009, 304, Velleman 2009, 137, and Katsafanas 2013, 47). To see the appeal of this proposal, notice that one striking feature of chess or the puppy torturing game mentioned above is that one can stop playing them. When one does stop playing these games, any sense that one is under normative pressure to abide by their constitutive norms evaporates. Identifying an inescapable activity seemingly promises to prevent such evaporation.

Despite this intuitive appeal, I am pessimistic about the inescapability approach, for reasons suggested by Matthew Silverstein (2015) and especially David Enoch (2006, 2011). On the one hand, it is unclear in what sense deliberation or agency (or whatever else the constitutivist points to as the relevant activity) is inescapable. On the other hand, it is unclear why the inescapability of an activity makes the norms of that activity *authoritatively* normative. In what follows, I propose a very different way of developing the constitutivist idea.

### 2.3 The proposal: an intuitive gloss

I conclude this section by giving an intuitive gloss on the heart of my alternative account, which will be fleshed out more precisely in the remainder of the paper. I have suggested that cases like Sticky Situation are especially useful for orienting us to authoritative concepts like PRACTICAL OUGHT. Why is that? My account begins

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<sup>14</sup> Compare Enoch 2006, 185-6. Note, however, that Schroeder’s case against the reliability of ‘negative existential intuitions’ about reasons (2007, 92-7) could be used to challenge this intuition.

with a plausible explanation: Sticky Situation is a case of normative conflict, and it is essential to the thought that certain norms have a distinctive normative authority that one takes these norms to be the ones to appeal to in cases of normative conflict. This suggests a job description for the concept PRACTICAL OUGHT: on a first gloss, what it is to think that *I practically ought to do X* in Sticky Situation is to think that X is called for by the norm that is the one to appeal to in the context of conflicts between norms, such as one encounters in Sticky Situation. My proposal is that the fact that the concept PRACTICAL OUGHT satisfies this job description is what explains its distinctive authoritativeness.

The core deflationary pluralist worry might seem to return here: for what is the relevant priority suggested by the 'one to appeal to' locution? Morality arguably has *moral priority* in cases of conflict, prudence arguably has *prudential priority*, etc. So if there is a 'norm to appeal to' here, it must be explained by that norm having some property other than simply prioritizing itself. The central motivating idea of this paper is that the constitutive norms for the activity of resolving normative conflict have the crucial property. To see this, suppose that the activity of resolving normative conflict has constitutive correctness and success conditions. Then, if you knew that you had fully followed these norms in Sticky Situation, you would know that you had resolved the (apparent) conflict between morality and prudence *correctly and successfully* relative to the standards for that very activity. This constitutive status is a very natural candidate for what it is for a norm to be the *one to appeal to* in a case of normative conflict. To make this vivid, suppose that you were convinced that the constitutive norms for the activity of resolving normative conflict always required you to privilege morality over prudence. And suppose you then found yourself confronting Sticky Situation. What would be left to deliberate about? After all, you already take yourself to know that if you complete your deliberations correctly and successfully, you will privilege morality. This suggests that the concept of the constitutive norms for the activity of resolving normative conflict can provide an illuminating characterization of the concept PRACTICAL OUGHT.

### 3. An account of the concept PRACTICAL OUGHT

The aim of this section is to transform the sketch just offered into a serious proposal. In order to do that, I do three things. I first offer a clearer and more precise characterization of the activity of resolving normative conflict. I then explain the role of the constitutive norms for that activity in my account. Finally, I explain how the account can be extended to apply to cases where an agent has no interest in resolving normative conflict. Together, these elements will put me in a position to offer an analysis of the concept PRACTICAL OUGHT.

#### 3.1 Resolving normative conflict

I begin by clarifying the activity of resolving normative conflict, which plays a central role in my account. Resolving normative conflict is an intentional activity which takes as input the belief that one ought relative to at least one norm to perform a certain action, while one believes that relative to at least one other norm, one ought not to perform it. Sticky Situation is an example of such perceived conflict among norms.<sup>15</sup> What is relevant is *perceived*, rather than *genuine* normative conflict. For example, suppose that (as some philosophers have thought) it is metaphysically or even conceptually impossible for morality and prudence to conflict. Even if these philosophers are right, someone in Sticky Situation could *believe* that morality and prudence conflict, and seek to resolve this conflict.

It will be most natural for an agent to attend to perceived normative conflict in cases like Sticky Situation, where the norms that are in play are both reasonably salient, and appear to many people to have a sort of normative significance wholly lacking in norms like the Touch Nose Move norm. But there is nothing to prevent someone engaged in this activity from thinking about a conflict

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<sup>15</sup> Notice that there is a range of nearby deliberative contexts. For example, suppose that in a variant of Sticky Situation I am *uncertain* of whether prudence conflicts with morality. Might I seek to resolve the apparently possible normative conflict in this case? Or could I seek to resolve such conflict *suppositionally*, even if I think morality and prudence can in fact never conflict? On a different dimension, one norm could mark option A as *better* than B, while another norm reverses this. Or one norm could mark option A as *required*, while another norm marks A as merely *permissible*. In light of the ultimate structure of my view, my narrow initial focus should be harmless.

between *any* two norms. Further, one could believe that there is a normative conflict without having a determinate view about which norms conflict. For example, in light of thinking about examples like the Touch Nose Move norm, it is natural to conclude that for any given option, there will be some norm that requires it, and some other norm that prohibits it. And one might want to resolve this merely existentially characterized conflict.

One might do all sorts of things in light of perceived normative conflict. For example, one might revisit one's reasons for believing the conflicting claims. Or one might ignore the conflict and look for a beer. Neither of these activities counts as *resolving* the conflict, in the sense I am interested in isolating.

It is natural to characterize the activity of resolving normative conflict as seeking to determine what one practically ought to do, in light of a believed normative conflict. However, it is essential to my project that this not be the *only* way of characterizing the activity. My aim is to give an account of the concept PRACTICAL OUGHT. And the activity of resolving normative conflict is a constituent of the account that I will offer. So if my account of that activity ineliminably uses the concept PRACTICAL OUGHT, the account would be objectionably circular.<sup>16</sup>

Next consider a minimal proposal: that it is sufficient to resolve a perceived normative conflict that one *select an option* in light of that conflict. One could satisfy this condition by noticing the conflict and then arbitrarily picking one option over the other. This minimal proposal clearly fails to capture what you are trying to do in Sticky Situation. If arbitrary picking would achieve your goal, there would be no point in agonizing.

The failure of the minimal proposal suggests a diagnosis: in Sticky Situation we seek a *non-arbitrary* resolution to the conflict. Provided that we understand arbitrariness in the right way, this is a plausible diagnosis. For example, consider a person who *always* does what she takes to be prudent. She clearly avoids arbitrariness in one sense: she adverts to a normative system to guide her behavior. However, suppose that she had initially selected the prudence norm as the norm to guide her deliberation by flipping a coin. This would

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<sup>16</sup> I am indebted to Garrett Cullity for making this challenge vivid to me.

constitute arbitrariness in the etiology of reasoning that led to the resolution of the conflict. Suppose that instead of flipping the coin, she had reasoned as follows: *always following the prudence norm is the prudent thing to do, so I shall do it*. Here there is no mere picking or coin-flipping in the background. But this reasoning ignores a troubling symmetry: perhaps always following the moral norm is the moral thing to do.<sup>17</sup> Upon noticing this, a reasoner would either need to plump for resolving the conflict by deploying the prudential norm (which is arbitrary), or she would need to find some further basis for choice between the two norms. The same point would apply to the reasoner who arbitrarily picked some third norm to adjudicate the conflict. If, for example, I plump for guiding my choice by whatever it would be most polite to do whenever I notice a conflict between morality and prudence, my doing so intuitively exhibits arbitrariness in the same extended sense.

These examples shows is that a choice can count as involving arbitrariness in an extended sense, in virtue of the etiology of that choice involving either (a) relevant arbitrary picking or (b) a failure to even consider a relevant normative conflict.<sup>18</sup> This gloss may be incomplete, but together with the examples, I take it to suffice to give at least many readers a grip on the notion of arbitrariness that will allow them to use the notion, for example to confidently categorize novel cases. It is also worth emphasizing that ‘non-arbitrariness is *not* a covert way of talking about how one *ought* to address normative conflict. For familiar ‘rational irrationality’-style reasons, one sometimes ought to ignore normative conflict, or to resolve it arbitrarily: if the demon will torture everyone forever if I seek to resolve a normative conflict, it is plausible that I ought to avoid doing so.

It is plausible that only the appropriate appeal to some norm can enable one to non-arbitrarily resolve normative conflict. But as we have just seen, not just any norm will do: the discussion of arbitrariness provides an *identifying description*

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<sup>17</sup> The symmetry suggested here is illustrative only, and not realistic. If we think of *following a norm* as an intentional activity guided by a representation of the norm, it is unlikely that either morality or prudence always endorses following itself, due to familiar ‘rational irrationality’-style phenomena.

<sup>18</sup> The mention of relevance here gestures at a pattern familiar from other contexts. For example, anti-luck epistemologies do not object to knowledge acquired via luckily acquired evidence. Similarly, if I flip a coin, and on that basis decide to non-arbitrarily resolve a perceived normative conflict, there need be no problematic arbitrariness in the etiology of my deliberation.

for the norm we seek. The norm we seek has to be a norm such that appealing to it in order to resolve the normative conflict will not be arbitrary in even the extended sense just discussed. This description has the crucial consequence that there can be at most *one* norm that satisfies it. To see this, suppose for reductio that two norms satisfied this description: then (if one knew this) one would have to determine which of them to follow. And this determination would exhibit arbitrariness in the extended sense.<sup>19</sup>

### 3.2 The constitutive norms for resolving normative conflict

In the previous section, I sketched several features of the activity of resolving normative conflict. I proposed that this activity involves seeking to deploy a certain norm. Further, the nature of the activity itself, I argued, entails a definite description for that norm: being the unique norm appeal to which resolves normative conflict in a way that is not arbitrary in even the extended sense. Call the norm that fits this description (if there is one) *N*.

Next recall the contrast between constitutive correctness and success conditions. For example, suppose that I am seeking to add 17 and 34. I plausibly add them *correctly* if, without error, I use an appropriate mathematical procedure to arrive at the conclusion. On the other hand, if I conclude that the sum is 51 *simply because* 51 is my favorite number, there is a natural sense in which I added the numbers successfully: my goal was to identify the sum, after all, and I did that. But there is a clear sense in which I did not add them correctly.

It is plausible that the activity of resolving normative conflict has both constitutive correctness and success conditions. For example, given the discussion of the previous section, plumping for one norm or another would be a clear example of *incorrectly* engaging in this activity. And one might avoid such incorrectness, and yet fail to resolve the conflict at all (perhaps due to events outside of one's control) thereby engaging in the activity *unsuccessfully*.

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<sup>19</sup> Consider the possibility that one concludes one's deliberation undecided between two norms *that make the same prescription in this case*, but diverge elsewhere. One could conclude one's deliberation at that point. However, one could not take both of these norms to be identical to the norm picked out by the concept PRACTICAL OUGHT.

Arbitrariness is a matter of process rather than outcome. For example, suppose that, were I to comprehensively and correctly resolve normative conflict, I would thereby accept Moral Rationalism. Someone else could come to the same conclusion on the basis of a coin-flip. They would resolve normative conflict successfully, but not correctly. Notice next that the example of incorrectness in the previous paragraph was not special: given the nature of the activity, any way of resolving normative conflict that was arbitrary in the extended sense would be constitutively incorrect in just the same way. This shows that N – the unique norm for *non-arbitrarily* resolving normative conflict – is a constitutive correctness norm for the activity.

This puts me in a position to restate the intuitive reasoning from §2.3. I began by offering a job description for the concept PRACTICAL OUGHT: what it is to think that *I practically ought to do X* in cases of normative conflict is to think that X is called for by the norm that is the one to appeal to in the context of such conflicts. But now focus on the constitutive correctness and success norms for the activity of resolving normative conflicts. If you knew that you had fully followed these norms in Sticky Situation (e.g.), you would know that you had resolved the (apparent) conflict between morality and prudence *correctly and successfully* relative to the standards for that very activity. And this would leave you with nothing interesting to deliberate about.

Notice finally, that in some cases (like simple addition) correctness ensures success: I cannot correctly add two numbers and get the wrong answer. In other cases, correctness may be insufficient for success. For example, on a toy fallibilist epistemic theory, to believe correctly is to apportion one's belief to the evidence. To believe successfully is for one's belief to be true. In cases of misleading evidence, one can believe correctly but not successfully. I will not try to settle here which of these models is true of the activity of resolving normative conflict.<sup>20</sup>

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<sup>20</sup> Here is one reason why correctness might be insufficient for success: it might be that (i) invariantism is a conceptual truth about the concept PRACTICAL OUGHT, and (ii) correct but informationally limited resolutions of normative conflict might diverge. In this case, it might be that the relevant activity needs to be amended to *non-arbitrarily resolving normative conflict in a way that is not explained by impoverished information*.

Once we notice this possibility, we notice that correctness will be idle in the analysis: knowing that you had resolved normative conflict *successfully* (whether correctly or not) would leave you with nothing to deliberate about in Sticky Situation. Together, these points suggest the following principle:

**Incomplete** when an instance of resolving normative conflict concludes in a judgment of the form *I practically ought to do A*, for this judgment to be true is for the activity to have been concluded successfully, relative to its constitutive norms.

Incomplete is a candidate conceptual truth. However, it is (surprise!) importantly incomplete: for it says nothing about ought-judgments made in cases that are not instances of resolving normative conflict.

### 3.3 Scope and the conditional fallacy

The aim of this section is to extend the principle just offered so that it applies to agents who are not engaged in the activity of resolving normative conflict. I offer a natural counterfactual proposal, that extends my account to make it apply to agents in such contexts. I then address two natural and important objections to this extension. First, constitutive norms characteristically bind only those who actually engage in the relevant activity. Second, my account initially appears vulnerable to a version of the familiar ‘conditional fallacy’ style of objection to counterfactual accounts.

A premise of this paper is that cases like Sticky Situation are theoretically illuminating. However, they are also uncommon. We rarely notice conflicts among norms, let alone seeking to resolve them. To put it mildly, a plausible account of authoritatively normative concepts should be at least *compatible* with the thought that there are things that one ought to do in some cases where one is not attending to normative conflict. The solution is to offer a natural *counterfactual* extension of my account. Roughly: in cases where I act unreflectively, for it to be true that I practically ought to have done A, is for it to be true that *were I to have resolved normative conflict correctly and successfully concerning this choice*, I would have done A.

One immediate worry about this solution is that mere *counterfactual* participation in an activity governed by constitutive norms does not make those norms actually apply to a person. For example, were I playing chess right now, and I touched a piece, the rules of chess would require me to move that piece. But because I am not playing chess right now, touching a chess piece entails no such requirement. Familiar constitutivist accounts of authoritative normativity seek to address this worry by insisting that the relevant activity is inescapable.

The reply to this worry flows from a central motivation for my account. On my view, the distinctive normativity of the concept PRACTICAL OUGHT does not arise from any sort of inescapability. Instead, on my account, what makes a norm distinctively authoritative is that it is constitutively fit to play a special role in the activity of resolving normative conflict. In light of this, note that we can seek to resolve normative conflict concerning circumstances that we are not currently in. We can do this prospectively. For example, I might ask myself: *if I find myself in Sticky Situation tomorrow, should I stay and help?* We can also seek to resolve such conflict retrospectively. For example, sitting in jail after staying to help, I might wonder: *should I have taken the money and ran?* Finally, suppose that you want to criticize my having unreflectively acted immorally in Sticky Situation. You offer *moral* criticism, but I reply by asking: why should I do what *morality* demands in this case? In reply, you convince me that *if I had resolved the normative conflict that I faced successfully (relative to the constitutive norms for that very activity), I would have acted differently.* This conclusion is forceful in just the same way in the context of counterfactual criticism as it is in the context of first-person deliberation. In both cases it establishes a distinctive normative status.

This illuminates a general contrast between my account and many constitutivist accounts. These accounts appeal centrally to the relationship between a constitutive norm for an activity, and the psychology of someone actually engaged in that activity. By contrast, my explanation of the distinctive normativity of the concept PRACTICAL OUGHT is that what it is for a concept to be authoritatively normative is a function of the relationship of that concept to the activity of resolving normative conflict. The concept retains that authority outside of that context. Compare: an elected official has certain powers in virtue of her

relationship to an election. But those powers apply in contexts outside of that election! Because of this, nothing in my account entails that every agent *cares* about acting how they ought to. The aim of this paper is to provide an illuminating account of the authoritatively normative concepts, not a magic spell that will make people want to be good.

A second natural worry is that the counterfactual account is vulnerable to the *conditional fallacy* (e.g. Shope 1978, Johnson 1997). The basic worry is this. Suppose (a la Incomplete, above) that any time someone actually correctly and successfully resolves normative conflict, she concludes with a true belief about what she ought to do. Now consider a case in which I do not seek to resolve normative conflict. It seemingly might be that the nearest possible world in which I seek to do so is relevantly different from my actual circumstances, such that while I *ought* to perform a certain action in that world, I *ought not* to perform it in my actual circumstances. If this were possible, then the counterfactual extension of my account would deliver the wrong results.

A theoretical example may make the worry more vivid. My view about the concept PRACTICAL OUGHT should be compatible with *Humean* theories of what we practically ought to do, according to which facts about what one ought to do in a context are a (non-constant) function of one's desires in that context. Suppose that I currently have no desire to deliberate. And consider the thesis that I ought now to deliberate. The closest worlds in which I seek to resolve normative conflict concerning this question are worlds in which I have at least some desire to deliberate: after all, resolving normative conflict is an intentional activity. My counterfactual account thus seemingly might entail that I ought now to deliberate, in light of these counterfactually present desires, despite my actually lacking any relevant desire. And this is inconsistent with natural forms of Humeanism.

It is crucial to see that whether my account has such an implication depends on the content of the constitutive success norms for the activity of resolving normative conflict. My general policy in this paper is to remain as neutral as possible concerning the substantive content of those norms. However, the examples of prospective and retrospective resolving of normative conflict discussed above strongly suggest that these norms have a structural feature that

blocks the conditional fallacy objection. Prospective and retrospective deliberation are made intelligible in part by a conceptual constraint: at any two times when I successfully resolve the conflict about a single context of action, I *must* come to the same conclusion. To see this, suppose that yesterday I attempted to resolve normative conflict about what to do now. And suppose that I now attempt to resolve this conflict again. It would be confused to think that I had resolved the conflict correctly and successfully yesterday, but I might get a different answer if I now resolve the conflict successfully. It may help to compare: holding fixed a certain chess position, every correct assessment of the legal moves available to white in that position will be the same, no matter the context of assessment. Call this property of the constitutive norms *intrapersonal invariance*.<sup>21</sup>

If the constitutive norms for the activity of resolving normative conflict are intrapersonally invariant, then the conditional fallacy worry cannot arise. Return to the Humean theory: this theory is intrapersonally (and interpersonally) invariant: according to this theory, no matter the context of evaluation, what an agent ought to do is a function of the desires of the agent in the context of *action*. Because of this, my account is compatible with the Humean theory.

This section has aimed to transform the intuitive idea set out in §2.3 into a reasonably fleshed-out proposal that provides a conceptual analysis of the concept PRACTICAL OUGHT that connects to the intuitive picture of what the distinctive normative authority of this concept amounts to. In light of the discussion just concluded, that conceptual analysis can be set out quite simply:

**Constitutive** S practically ought to do A in context C =<sub>def</sub> the constitutive success conditions for the activity of non-arbitrarily resolving S's perceived normative conflict concerning C require doing A

I now consider an important line of objection to my account.

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<sup>21</sup> Note that I am advocating *intrapersonal* invariance here. I take these points to be prima facie compatible with a contextualist account that allows that there could be different resolutions to normative conflict across *evaluators*.

#### 4. Schmagency

My account offers a conceptual analysis of the concept PRACTICAL OUGHT that provides a kind of constitutivist explanation of the distinctive normativity of the authoritative norms. In this section, I first explain why my account is largely immune to one of the most important contemporary challenges to constitutivism, David Enoch's 'schmagency' challenge. I then explain how schmagency-like worries can nonetheless be levied against my account in the form of a trilemma, before explaining how the trilemma can be met.<sup>22</sup>

One natural reading of the central strand of Enoch's challenge is this. On Enoch's reading, the constitutivist thinks that our usual collection of motivations are too arbitrary a basis to ground normativity. By appealing to features that are constitutive of action (for example), the constitutivist aims to eliminate this objectionable arbitrariness (2006, 178). Against this, Enoch argues that the problematic arbitrariness cannot be eliminated by the inescapability of the relevant activity (2006, §6), or by the related idea that we (can't help but) care about agency or its constitutive norms (2011, 212-13), or by insisting that one cannot even raise doubts about normativity except in a context where one is already committed to certain constitutive norms (2011, §6). As should be clear, I am sympathetic both to the constitutivist's aims as Enoch glosses it here, and to his worries about extant attempts to achieve those aims.

Because I reject the mechanisms for arbitrariness reduction that Enoch considers on behalf of the constitutivist, his central arguments largely pass my view by. But it may seem that his core argument can be easily *adapted* to challenge the argument in this paper. I think that the most forceful way of doing this is to focus on the notion of *non-arbitrariness* that I deploy. This notion is central to my characterization of the activity whose constitutive norms are supposed to

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<sup>22</sup> Given that I am offering a candidate conceptual analysis, I should explain why I am unworried by the open question argument. In anything like its canonical form (a la Moore 1993 [1903]), I take the argument to simply be hopeless. Consider: suppose that I offer you a novel and surprising analysis A of some philosophical concept C. As a result of reading my argument, your credence in the analysis goes from negligible to 0.7. As philosophy goes: *extraordinary success!* But now you ask yourself: *I know that X is A; but is it C?* This is likely an open question given that your credence in the analysis is only 0.7. As far as I can tell, the openness of this question gives you no information you did not have before, and is certainly no reason to lower your credence in the analysis.

illuminate the concept. PRACTICAL OUGHT. The objector can press a trilemma here: either the notion of non-arbitrariness will

- (a) be too thin to generate facts about what we ought to do,
- (b) be thick enough to prompt reasonable normative resistance (why care about *that* kind of non-arbitrariness?), or
- (c) covertly appeal to the concept PRACTICAL OUGHT, thereby rendering my account objectionably circular

Let me reply to this trilemma in reverse order.

First, I argued in §3.1 that I have given the reader enough to get a grasp on the relevant concept of arbitrariness, independently of thinking about the concept PRACTICAL OUGHT. I also think that these two concepts can clearly come apart in cases where (in light of consequences) one ought to resolve normative conflict incorrectly.

The second horn is a variant of the central ‘schmagency’ idea that Enoch prosecutes: he imagines someone who is normatively indifferent to the alleged constitutive features of agency. It is important that this objection garners force from the fact that the relevant notion of agency is supposed to be thick enough to underwrite substantive normative conclusions. However, deriving such conclusions is no part of my account. So it is much less clear what would prompt the relevant normative resistance. (As I emphasized in the previous section, it is wholly compatible with my account that someone does not *care* about non-arbitrariness.)

Turn now to the first horn. I argued in §3.1 that there did seem to be straightforward constitutive *correctness* norms for the relevant activity (e.g. don’t just plump for a norm). However, on my account, the concept PRACTICAL OUGHT is analyzed in terms of constitutive success norms, and it is less clear that there are such norms. I embrace this result. My account is *purely* a conceptual account, and makes no substantive guarantees. It is compatible with the concept PRACTICAL OUGHT being informatively analyzable but necessarily empty, much like the concept LARGEST PRIME.

A final schmagency-style worry: one might think there are slightly different versions of arbitrariness: arbitrariness<sub>A</sub>, arbitrariness<sub>B</sub> etc., which agree on central

cases but diverge at the penumbra. And you might think that these cases will be constituents of *different* activities, with different constitutive norms.<sup>23</sup> In reply, I think it is crucial that we take the arbitrary/non-arbitrary distinction to be part of the genuine structure of the world: we expect all of the non-arbitrary selections to exhibit a *real similarity* in this respect. In adverting to non-arbitrariness, we aim to be latching on to that structure. If it turns out that there is no such structure – or that there are multiple candidate such structures that we might be talking about, then the uniqueness assumption of the activity is undercut, and the result will again likely be that the concept PRACTICAL OUGHT is necessarily empty. This would be an unappealing result, but it does not threaten the conceptual analysis itself.

### 5. Consequences of the analysis

As I suggested in §1, the elusiveness of what we might be getting at with talk of ‘distinctively authoritative’ norms calls out to be addressed, and the failure of this project would lend weight to the deflationary pluralist’s suspicion that such talk is ultimately nonsensical. This paper has aimed to rebut these suspicions by providing an analysis of the concept PRACTICAL OUGHT that elucidates its distinctive normative authority. In doing so, I have drawn on resources familiar from the constitutivist tradition to defend:

**Constitutive** S practically ought to do A in context C =<sub>def</sub> the constitutive success conditions for the activity of non-arbitrarily resolving S’s perceived normative conflict concerning C require doing A

I have argued that Constitutive enables us to provide a constitutivist explanation of the distinctive normativity of the authoritatively normative concepts. Roughly: what makes these concepts distinctively authoritatively normative is that they are (constitutively) the norms to appeal to in cases of conflict among norms.

Besides its merits, the account illustrates the flexibility of constitutivist accounts. For example, as I emphasized in §4, the sort of constitutivist account I have offered largely escapes the David Enoch’s schmagency challenge to

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<sup>23</sup> I am grateful to Anandi Hattiangadi for incisively formulating this objection. The parallel with Enoch’s schmagents – who fall just outside of the bounds of agency’s constitutive norms – should be clear.

constitutivism. One might complain that this is purchased at the cost of reduced ambition: there is no hint in my account of an attempt to derive any substantive normative conclusions – let alone the categorical imperative – from constitutivist materials. However, I take it to be a mistake to think that constitutivism must accomplish everything its proponents have dreamed in order to deserve our attention or assent.

In the remainder of the paper, I briefly sketch some of the implications that the view defended here would have for broader metaethical theorizing. Consider first the dialectic between the metaethical cognitivist and the non-cognitivist (where, roughly, the cognitivist claims that, at the fundamental explanatory level, the thought that I ought to do A is a belief). One way to motivate the non-cognitivist view is to insist that primitivism about authoritatively normative concepts is unacceptable. Once this is done, the non-cognitivist conjectures that what marks off authoritatively normative thoughts as distinctive is that they are constituted by (for example) Gibbardian planning states. One dialectical strength of the non-cognitivist view, if we grant the objection to primitivism, is that plausible and non-trivial cognitivist accounts of fundamental authoritatively normative concepts are thin on the ground. On my account, however, the concept PRACTICAL OUGHT is just built up out of the materials needed to understand generically normative concepts. So, unlike the non-cognitivist account, my account can simultaneously explain both the intuitively thought that the authoritatively normative concepts are importantly continuous with the generically normative concepts, and the thought that they are distinctive.

My account also helps the cognitivist with respect to the dialectic concerning normative disagreement. R. M. Hare (1952) and Terence Horgan and Mark Timmons (1992 etc.) have argued persuasively that genuine moral disagreement seems possible between members of linguistic communities whose moral thought seems to track different properties. Such disagreement phenomena seems to carry over with even more force in the case of authoritatively normative concepts. My account can potentially help to explain how this fact is compatible with cognitivism: my account analyzes the authoritatively normative concepts in terms of an extremely thin functional role. If this is true, then as long as a

linguistic community's word behaves in accordance with this role, it will express the same concept.

My account can also help to defend particular cognitivist metaethical projects against some of the characteristic challenges that they face. Consider first the way it can be useful to the metaethical *error theorist* and the *fictionalist*.<sup>24</sup> Schematically, the most straightforward way of arguing for error theory is as follows:

Conceptual claim:	All authoritatively normative claims commit us to the existence of X
Metaphysical claim:	<u>X does not, or could not, exist</u>
Conclusion:	Authoritatively normative claims are systematically erroneous

One difficulty for the error theorist is to provide a plausible version of the conceptual claim (Finlay 2008). Illustrative here is the derision rightly heaped on John Mackie's claim that it is part of the ordinary concept of objective value that such values somehow magically *make us pursue them* (1977, 40). My account can help the error theorist here. For the error theorist might accept my conceptual claim, and argue as follows:

Conceptual claim:	the concept of an authoritative norm is the concept of a constitutive norm for the activity of resolving normative conflict
Metaphysical claim:	There are no (or no interesting) norms that are constitutive <u>of resolving normative conflict</u>
Conclusion:	Authoritatively normative claims are systematically erroneous

Metaethical fictionalists face an analogue of the error theorist's conceptual challenge. In this case, the task is to tell us what, at least roughly, makes a fiction a fiction about *authoritative normativity* (compare Hussain 2004). My account can help here in an analogous manner. The fictionalist could treat the claim that there are substantive norms constitutive of resolving normative conflict claim either as a characterization of the content of the fiction that we already implicitly accept (for the hermeneutic fictionalist), or as an account of the fiction that we should adopt (for the revolutionary fictionalist).

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<sup>24</sup> Fictionalism can be developed in both cognitivist and non-cognitivist ways (see Joyce *forthcoming* for discussion). I take the proposal in the text to be friendly to both variants.

Even if my account thus helps the *cognitivist*, you might wonder if it helps the *realist*. As I have been emphasizing, my account is neutral concerning where there are any authoritatively normative facts. It is in principle compatible with going on to argue for a constitutivist derivation of normative content. Such a strategy might proceed, for example, by attempting to identify plausible structural principles that are required in order for a resolution of normative conflict to count as non-arbitrary. While this project is not obviously hopeless, I am pessimistic about its prospects, and I take the most interesting implications of my view for the realist to lie elsewhere.

The complete picture is complex, but let me sketch the barest outlines. To simplify grotesquely, a theory of reference-determination initially proposed by David Lewis (1983, 1984), the referent of a term is a function of two factors: how well the candidate referent satisfies the functional role of the term, and how *eligible* the candidate referent is to be a referent. Lewis goes on to suggest that the joints of nature are distinctively eligible for reference. One way of characterizing the metaphysical commitment of normative realism is this: that the authoritative norms are distinctive joints of nature among the space of possible normative systems. The functional role suggested by Constitutive is arguably tremendously thin: the relevant norm must be a non-arbitrary basis for selection, among the space of normative systems. Being the distinctive joint of nature among these norms is (a) a non-arbitrary basis for selection, and (b) an eligibility maker. On this view, the determinate and stable reference of the concept PRACTICAL OUGHT is a function of the thin conceptual role suggested by Constitutive, the realist's distinctive metaphysical claim that there is a distinctive normative joint of nature, and (an appropriately developed successor to) the Lewisian metasemantics. This is, of course, the barest of sketches of an ambitious view (for more careful discussion of the metasemantics I find most appealing, see Dunaway and McPherson *forthcoming*). However, I think it is highly promising in broad outline, and it at least suffices to show why Constitutive does not force the metaethical realist to abandon all hope.

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