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Robust Constitutivism: What Normativity Will Emerge from Facts about Agency?

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Abstract

The central claim of constitutivism is that there is an inescapable, constitutive aim (or feature) of action that generates and grounds normativity in general, and moral normativity in particular. However, constitutivist accounts often face two significant challenges: the specificity challenge, which argues that any norm-generating aim is too specific to be genuinely inescapable (giving rise to so-called 'shmagency' objections), and the vagueness challenge, which contends that any sufficiently general aim fails to generate specific norms. This paper argues that a version of constitutivism that draws on a Hegelian account of willing can overcome both challenges, thereby enabling constitutivism to maintain its viability as a metaethical theory.

I. Introduction

I say 'good morning' to a neighbour and stand aside on the stairwell, enabling them to pass through the narrow corridor. No word of 'thanks', nor even the vaguest acknowledgement of my presence, is offered. I am annoyed because I feel my neighbour *should* have said 'thank you'. I go to work in exchange for money. This enables me to buy my wife gifts, and my pets treats. I expend the effort required by my role. I feel *obliged* to my employer, my students, and my loved ones to do a so-called 'honest day's work'. Afterwards, I feel I *ought* to go to the gym to maintain (and on good days, *improve*) my physical and mental health. While the weight of 'oughts' and 'shoulds' bear constantly upon us, the source and authority underwriting this ubiquitous, yet nebulous, class of judgements has an unclear grounding: Are these 'shoulds' and 'oughts' different species? Where do our obligations come from and what gives them their authority? These questions have broadly occupied the domain in philosophy known as metaethics and many accounts have been given supporting the various possible positions on the spectrum of possible answers.

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One such answer, 'constitutivism', aims to locate and ground the force of these 'oughts' in facts about action and agency. The constitutivist claims that there is some inescapable, 'constitutive', aim or feature of action *itself* and then usually spells out what this aim or feature *is*, offering an argument as to *why* we should consider it a) omnipresent and b) norm generating.

Many constitutivist accounts fall over one or two hurdles. One hurdle is concerned with specificity—any aim that is sufficiently determinate to be norm generating is going to simultaneously be too specific to be inescapable. The second hurdle is concerned with generality and is effectively the same worry in the opposite direction, viz. that any attempt to avoid the first hurdle (by making the constitutive feature so general that it is *genuinely* inescapable) is also going to fail as it becomes unclear as to what specific normative structure could arise from such a vague account. I will call this challenge the *vagueness challenge*.

This paper will argue that there is at least one version of constitutivism that can stride over both hurdles and, thus, that constitutivism remains a valuable avenue of enquiry in metaethics.

I will begin this paper by outlining what problem the constitutivist takes herself to solve, enabling me to outline the formal constitutivist account. I will then raise some 'shmagency' challenges that put pressure on the formal theory, showing how the constitutivist can respond to these and thus successfully overcome the first hurdle. Once our formal theory is secure, I will examine some new versions of the shmagency challenge, which put pressure on the formal theory while also making demands of the *substantive* theory—I find these challenges more persuasive and so will dedicate time to outlining these objections before going on to outline my own preferred solution to this class of objections, specifically, by outlining my own constitutivist account. This constitutivist account draws on Hegelian accounts of agency, willing and action.

If my paper is successful, I will show how my Hegelian constitutivism remains functional despite the standard objections raised. If this is the case for at least one version of constitutivism, then constitutivism itself remains viable as a metaethical theory.

II. What is the problem the constitutivist is trying to solve?

Usually when someone is resisting the demands of morality in some way, they call into doubt either some particular moral reasoning, or they put pressure on the idea that morality can make a special kind of demand on us. Perhaps they disagree that one ought to give to famine relief, claiming that this is an inefficient way of distributing aid to those in need. Perhaps they think moral considerations are just

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dressed-up social conventions and, as such, have no special 'pull' on us. Often, this kind of scepticism is used to justify some sort of immoral behaviour. We can, however, imagine a different kind of sceptic; not immoral, but *amoral*. They take it as reasonable to ask why they should *care* about moral considerations, placing themselves in a sceptical mode about the connection between moral judgements and motivation. Consider the difference in scepticism thus:

> Much moral scepticism is scepticism about the objectivity of morality, that is, scepticism about the existence of moral facts. But another traditional kind of scepticism accepts the existence of moral facts and asks why we should care about these facts. Amoralists are the traditional way of representing this second kind of scepticism; the amoralist is someone who recognizes the existence of moral considerations and remains unmoved. (Brink 1986: 30)

Brink's amoralist, a person who recognizes the status of the *object* of moral judgements but sees no reason as to why they ought to be motivated by them, poses a challenge to any account of normativity that claims knowing the 'moral facts of the matter' is necessarily, and at the same time, motivating. Our amoralist accepts the rules of morality, but why should they care about morality; 'I accept that doing x is a morally good thing, but I don't see how that gives *me* any reasons to do x'. This statement hits the ear strangely, perhaps not just because of my poor writing, but is such a statement conceptually coherent? Consider the following:

> Daniel has arranged to go to a café with one of his highly regarded friends, Elizabeth. They are both trying to decide which café to patronize. Given time constraints, they can either visit the café owned by the large corporation, *Melville's*, or the independent speciality café, *Proportion*.
>
> Elizabeth, being a good moral agent, informs Daniel that *Melville's* pay their staff poorly and use their profits to finance governments that actively scapegoat and persecute those who write with their left hand. They are also known to use their enormous purchasing power to coerce coffee farmers into accepting exploitative rates for their beans and incentivize participation in various deforestation practices. *Proportion* on the other hand pay their staff and their coffee farmers very well. They use their profits to increase staff wages and upgrade the necessary machinery.

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> Daniel insists on going to *Melville's*. Elizabeth is confused but imagines that there must be some sort of exculpatory reason to which she is ignorant. Being a good friend, she asks Daniel if perhaps he hasn't enough money to pay for the (slightly) more expensive coffee. Daniel responds that he lives very modestly and, consequently, enjoys a sizable disposable income. Perhaps instead, Elizabeth asks, Daniel has not been persuaded by her reasons and arguments to prefer *Proportion*. Daniel responds that, to the contrary, he found Elizabeth's arguments both comprehensively damning and entirely correct; he agrees with her assessment that it is immoral to patronize *Melville's*.
>
> Stumped, Elizabeth asks 'then why are you insisting on going to *Melville's*?'. Daniel responds 'well, I grant that going to *Melville's* is morally less good than going to *Proportion*, but you haven't given me any reasons to care about this! Why should I care about acting in conformity with the moral facts of the situation?'.

Is Daniel irrational? If there is no necessary conceptual link between judgement (what one believes is good) and motivation (what one has reason to do), then Daniel is not irrational. If such a person as our amoralist Daniel is possible, then the challenge he poses is reasonable—Daniel's question, therefore, appears to demand an answer. Our constitutivist aims to provide one.

III. The constitutivist project: what does it say on the tin?

The constitutivist usually argues for two (controversial) claims:

1. *The formal theoretical claim*: Action has some distinct feature, F. F constitutes action as a 'kind', so if F is absent from some event or other, then that event is not an action. F also provides agents with an evaluative standard and grounds normativity. Provided an agent participates in actions (and they necessarily must if they are to be considered agents *at all*), they are necessarily directing their action towards the instantiation of F.
2. *The substantial theoretical claim*: this outlines what F *is*.[1] The constitutivist will normally say that F is the inescapably property of action that gives us specific norms.

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III.i. The formal claim and the first hurdle

The formal claim is perhaps the most common area of attack for opponents of the project as it is here constitutivism is most vulnerable. Attacks on versions of constitutivism at the substantive level might devastate a *particular* constitutivist account, but a devastating criticism of the formal theory would be fatal for constitutivism *as such*. It is, therefore, important to ensure that our formal account is fortified against such fragility, lest the rest of this paper become redundant. I will start by outlining the formal components of what I take to be the strongest version of constitutivism before raising objections. These objections should enable us to make sense of the distinct claim the constitutivist is, and importantly, is not, making. I hope this clarity will mitigate, if not completely defuse, some of the more prominent arguments against constitutivism hitherto taken to be forceful. This mitigation will help me stride over the first hurdle.

III.i.i. The formal claim

The formal account I am interested in claims:

1. That *willed* action (for the time being, simply, 'action'), for agents, is inescapable—agents just are those things that participate in action. Agents cannot choose to stop acting, as the choice to remain inactive would, itself, be an action.
2. That action has a constitutive, norm-generating, feature. This feature is an aim to which *all* action is directed. If such an aim is absent in an event, then such an event is not an action.
3. If normativity arises from such a constitutive feature present in any instance of action, and if action itself is inescapable for agents, then the norms generated by the constitutive feature are, themselves, inescapable. Agents are necessarily bound by the norms arising from action.

Let us look at these claims in turn.

III.i.i.i. Claim 1

This is, perhaps, the least controversial of the claims as it can be taken to be placing a restriction on the sort of subjects for which constitutivism is trying to account. By 'agent' we mean only those beings who participate in action. Action, for such beings, is inescapable and reveals, or expresses, the fact of agency. Agents *just are* those things that act:

> Human beings are *condemned* to choice and action. Maybe you think you can avoid it, by resolutely standing still, refusing to act, refusing to move. But it's no use, for that will be something

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> you have chosen to do, and then you will have acted after all. Choosing not to act makes not acting a kind of action, makes it something that you do.
>
> This is not to say that you cannot fail to act. Of course you can. You can fall asleep at the wheel, you can faint dead away, you can be paralyzed with terror, you can be helpless with pain, or grief can turn you to stone. And then you will fail to act. But you can't *undertake* to be in those conditions—if you did, you'd be faking, and what's more, you'd be acting in a wonderfully double sense of that word. So as long as you're in charge, so long as nothing happens to derail you, you must act. You have no choice but to choose, and to act on your choice. (Korsgaard 2008: 1, 2)

Agents are those things that produce actions. This is taken to be definitionally true and there are good reasons, as noted by Korsgaard, for doing so. To be an agent is to be active in a certain kind of way. The Korsgaard passage above captures a plausible intuition about agency and agents as beings who act as a certain kind of cause in the world, as being the producers of a certain kind of effect. But what sort of phenomena do we aim to describe here?

> To regard some movement of my mind or my body as *my action*, I must see it as an expression of my self as a whole, rather than as a product of some force that is at work *on* me or *in* me. Movements that result from forces working *on* me or *in* me constitute things that happen to me. To call a movement a twitch, or a slip, is at once to deny that it is an action and to assign it to some part of you that is less than whole. (Korsgaard 2008: 19)

Action denotes a certain kind of (conceptually) restricted event; it is to be a particular *kind* of source in a causal chain. We are, usually, talking only about effects that emanate from the agent that the agent themselves would take themselves to be the source. The sort of event we are talking about is 'action' and we take 'action' here to describe *only* those events or effects that we would describe as being in some part controlled, brought about, or intended, by us. Things that cannot be a causal source of this kind are not agents; agents are *constituted* by their ability to wilfully bring about effects.

III.i.i.ii. Claim 2

For something to be 'constitutive' it has to hold the following structure or stand in the following relation:

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> E is constitutive for P in the case that if P stopped having property E, then P would stop being P.

P is P only in virtue of having E. If P stops having E, P stops being P. The claim here is that some beings, events, actions, mental states, etc., are defined by the presence of some feature or other, such that the feature itself is the thing that determines whether or not the being, event, action, mental state, etc., is an instance of its kind. For example, a constitutive feature of a mammal is that it is warm blooded. If an object is not warm blooded, then that object is not a mammal. Having warm blood (E) is constitutive of being a mammal (P). Further, it is a constitutive feature of being a student that one is engaged in study of some kind (E). If one stops studying (-E), then one stops being a student (-P). For the constitutivist, agents (P) are defined by their ability to act (E), if an agent (P) is unable to act (-E), then (P) is not an agent (-P).

The second claim takes this idea of 'constitutive' and builds it into their account of action. Specifically, the claim is that there is a definitional, constitutive, feature that denotes instances of action (and, therefore, agency), and that our commitment to pursuing this definitional feature is inescapable for the agent in virtue of the inescapable nature of action itself. Such directedness is formally expressed thus:

> Let A be *any given action*. Let G be a goal. A constitutively aims at G iff (i) each token of A aims at G, and (ii) aiming at G is part of what constitutes an instance of A.

Examples of the presence of such a kind-defining type are commonly found in games. Many games have some sort of success condition that the player aims towards, such that the attainment of this success condition is the thing that defines an instance of playing the game. In chess, it is the avoidance of resignation or checkmate. Aiming towards these things is what defines an instance of chess. If one is neither trying to avoid resigning nor being checkmated (usually, one attains this by forcing the resignation or checkmate of one's opponent) then one is simply not playing chess.

Just as an examination into the structure of some games will reveal a constitutive feature, towards which each token of playing will aim, so too does this feature give us an internal normativity. The constitutive feature of a game will give us reasons to make some move or other (if aiming towards checkmate is better served by the move Kb1-c3, then one *has reason to* play Kb1-c3). And so too will an examination into the structure of action reveal a norm-generating constitutive feature. Normativity arises from the definite aim that describes and constitutes an instance of action. This introduces another structural feature of constitutivism, viz. a success condition:

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> If A aims at G, then G is a standard of success for A.

This success condition gives constitutivism its normative character. Constitutivists are going to make the strong claim that all actions constitutively aim *towards* G, and that G, being the standard of success for all instances of action (A), is the normative standard by which A is judged. A is *good* to the degree it attains G. Just as a chess player is 'good' to the degree they can attain checkmate, or force the resignation of their opponent, so too is the agent 'good' to the degree they can obtain the success condition to which they inescapably aim.

We now have the full formal picture of constitutivism. Agents are those things who act. If one does not act, one is not an agent. Action has a constitutive feature to which agents are necessarily directed. If one is not aiming towards the attainment of this feature, one is not acting. And if one is not acting, then one is not an agent. Given that you are, inescapably, an agent, you necessarily aim towards the attainment of this feature or goal. This allows us to describe the formal outline of constitutivism thus:

> Let F be any being, let E be an agent, let A be an action, and let G be a goal:
> (Being) F is an instance of (Agent) E, iff F As towards G, such that if F stopped A-ing towards G, then F would stop being E.

III.i.i.iii. Claim 3

Claim three follows if we grant the preceding two claims. If the first claim shows that there exists a conceptually inescapable link between agency and action, and if the second claim shows that actions are defined by the presence of a constitutive, norm-generating, feature, then claim three draws these two components together, arguing that agents are inescapably bound to, and constitutively defined by, the normativity that arises from action.

Constitutivism just is the view that agency itself contains internal standards of practical rationality that give rise to moral norms from which one cannot opt out. Agency expresses itself in action directed towards a definite, kind-defining, goal. And the attainment of this kind-defining goal is the normative, evaluative, yardstick for agents. This yardstick is inescapable *because* being an agent is inescapable:

> Some constitutivists are persuaded that understanding the normativity of theoretical and practical reason requires an investigation of the nature of agency, the hope being that such an investigation will help to explain the categorical or objective nature of the norms of rationality and morality.

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> Norms are constitutive of agency and action, the thinking goes, and so an inescapable part of human reality; thus opting out of rational agency is not (in the relevant sense) possible. (O'Hagan 2014: 17)

III.i.ii. Criticism of the formal claim and overcoming the first hurdle

We started this paper by looking at David Brink's amoralist objection and its challenge to any (internalist) account of practical reasoning. This style of sceptical objection (scepticism about the conceptual confluence of judgement and motivation) has an intra-species equivalent and constitutivism-specific counterpart which finds its most famous articulation in the work of David Enoch. Enoch raised his objection when criticizing Korsgaard's claim that the constitutive feature of action is 'self-constitution in accordance with the principles of the categorical imperative', and while his criticism was against Korsgaard's constitutivist project in particular (see Enoch 2006: 171), it has since been taken to be, at the same time, a criticism of constitutivism *as such*. While the debate has moved on from Enoch, his own outline of the problem remains clear and packs the hardest rhetorical punch:

> assume that our sceptic is even convinced that—miraculously—morality and indeed the whole of practical rationality can be extracted from the aim of self-constitution. Do we have any reason to believe that he will care about the immorality or irrationality of his actions? Why isn't he entitled to respond along the following lines: "Classify my bodily movements and indeed me as you like. Perhaps I cannot be classified as an agent without aiming to constitute myself. But why should I be an agent? Perhaps I can't act without aiming at self-constitution, but why should I act? If your reasoning works, this just shows that I don't care about agency and action. I am perfectly happy being a shmagent—a non-agent who is very similar to agents but who lacks the aim (constitutive of agency but not of shmagency) of self-constitution". (Enoch 2006: 179)

To merge this into the language of Brink's amoralist, we might say something like: 'sure, I might accept that all of normativity comes from facts about the way agency is constituted, but what reasons do I have to be an agent? Why not simply escape the normative sphere associated with agency by refusing to constitute myself as such?'. Leffler describes the problem formally in a helpfully clear fashion:

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> P1. If constitutivism is true, the conditions of agency that explain (normatively forceful) practical reasons for us must be (descriptively) inescapable.
>
> P2. We can (descriptively) escape instantiating the conditions of agency that explain (normatively forceful) practical reasons for us.
>
> C. Constitutivism is false. (Leffler 2019: 123)

The constitutivist account denies P2. There is, *ex hypothesi*, no such thing as a shmagent. Obligations, norms, or whatever moral property you are interested in, emanate from facts about agency and gain their authority from the inescapability of the constitutive aim of action. By arguing that the (Brinkian) question 'what reason do I have to do what I have judged I ought to do' is nonsensical (in virtue of agents necessarily and inescapably *aiming* to do what they necessarily and inescapably *ought* to do), the question 'why should I be a good person?' or 'why should I act in accordance with some moral norm?' is answered with 'because, realize it or not, you are inescapably trying to'—there is no space outside agency you can occupy, there is no being 'reasoned-into' the moral sphere; persons are necessarily moral beings, inescapably aiming towards the good. Such a response does not satisfy Enoch: 'For the move from "You inescapably Φ" to "You should Φ" is no better—not even the tiniest little bit—than the move from "You actually Φ" to "You should Φ"' (Enoch 2010: 229). The sentence 'as a being with mass, you inescapably and actually have a spatial location, therefore you should have a spatial location' is extremely confused. Where does the 'should' come from here? What sense does it make to include it? Enoch is correct to say that it sounds, at the very least, bizarre to say you should do something you actually do, or you should be something you actually are.

Constitutivists respond in two ways to this objection. Response one points out that Enoch misses out the word 'aim'. This word plays a vital *normative* role in the account. While the imperatival tone of the word 'should' jars in the Enoch passage quoted, this is less the case than when one introduces the word 'aim' as it allows for a distance in attainment between what you set out to achieve and what you actually achieve: 'you should aim to get your paper published in a prestigious journal that recruits the most virtuous reviewers' does not, of course, entail that you will actually get your paper published in a prestigious journal that employs the most virtuous reviewers. The normativity that arises from this prevents the move from 'you inescapably aim to Φ' to 'you should Φ' because the constitutivist can be indifferent to the 'should' here. Compare the following:

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(1) All actions inescapably aim towards happiness
(2) All actions should aim towards happiness

Position (1) is sufficient for normativity because the 'aim' carries a normative force while also enabling room for failure. We can see how an aim can remain unaccomplished whereas, on Enoch's characterization, it is not clear how one can fail to be a good agent.[2] It is the difference between (1) 'because you inescapably aim to win a game of chess, you should win the game of chess' and (2) 'because you inescapably aim to win a game of chess, you should move your knight on the second move'.

Enoch's formulation (1) reduces constitutivism to a straw man, eliminating space for failure. Were the constitutivist doing this, they would indeed be vulnerable to this attack.[3] The constitutivist is instead claiming (2)—this is a far more plausible account of normativity and reason-giving; the distance between what you inescapably try to do and what you actually do is sufficient to defuse Enoch's objection.

However, constitutivists (most notably, Paul Katsafanas (2013) also respond to Enoch by claiming he confuses the *sort* of reasons operating in the constitutivist account. A distinction must be drawn between *originating* reasons (reasons that arise purely in virtue of your participation in some activity or other) and *transferring* reasons, reasons that you would have, *were you* to have reason to participate in some activity or other:

(1) Constitutive Aims as Originating of Reasons: If you participate in an activity A, then the constitutive aim of A is reason-providing.
(2) Constitutive Aims as Transferring Reasons: If you *have reason to* participate in A, then the constitutive aim of A is reason-providing.

Constitutivists argue that the 'if' conditional of 'originating reasons' is always satisfied, because you are always an agent. There is no version of agency sufficiently weak to escape the normative demands arising from it (see Tiffany (2011) for a full defence of this position). It appears to be the case that Enoch's challenge to the constitutivist is based on a significant misunderstanding of the mechanisms to which the constitutivist is making recourse. Such a misunderstanding causes Enoch's objections to miss the mark completely, thus rendering his challenges unsuccessful. This, however, does not render *all* versions of the shmagency objection impotent. Recent attempts to revise shmagency concerns finds stronger expression in Leffler (2019), who invokes the idea of a *sophisticated* shmagent, a being who is able to participate in sophisticated practical reasons, while not being bound to a purported constitutive aim. Such shmagents are:

> intelligent, knowledgeable, and perform what looks a lot like actions for what looks a lot like reasons—and, I shall argue,

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> what well may be reasons. They are also capable of (what looks like) deliberation, reflecting on what they do, and are able to prefer different actions to the different extents. Accordingly, they seem like *prima facie* good candidates for participating in ordinary normative practices, such that giving reasons for their actions when asked why they are doing what they do.
>
> But sophisticated shmagents cannot act and are not agents according to the constitutivists. This is because they lack at least one—possibly all—of the constitutive features of agency that the constitutivists also use to explain reasons. Since constitutive features are necessary features, without them the sophisticated shmagents fail to qualify as agents. (Leffler 2019: 130)

This argument seems to apply as a criticism of existing *substantive* theories, rather than formal theories, and Leffler uses examples of Martians (beings who are motivated in accordance with the Humean Theory of Motivation) and Saturnians (beings who have some 'besire'-based motivational psychology) who do not have the constitutive feature the constitutivist claims is present in all agents. For example, perhaps our Martian or our Saturnian lacks the aim to be unified in accordance with the categorical imperative (Korsgaard's version of constitutivism). Leffler is going to argue that *any* given constitutive aim can be avoided at the substantive level.

Of course, more mundane examples exist. My cat, Fellini, is generally considered to be an agent of some kind, certainly he acts in the world in a way that gestures towards some sort of underlying intention. And yet he is not generally considered to be bound by Kantian or Korsgaardian norms arising from the categorical imperative (but, rather (if anything) the CATegorical imperative).

Does this mean that Fellini is, for Korsgaard, not an agent? This seems counterintuitive. If action, as such, is the thing that gives rise to norms, why do norms differ across species who most would accept participate in actions? If actions are the thing that gives rise to inescapably aiming towards the categorical imperative (Korsgaard) or self-knowledge (Velleman) or the will to power (Katsafanas), then how is my cat apparently escaping evaluation by this standard? Is my cat's action morally wrong if he demands a second breakfast, pretending to one parent that the other neglected to do this on their way to work? Of course not—Fellini is just acting as cats do. Aiming for a second breakfast by means of deceit is species-typical for him, and if I rebuke him by saying Kant and Korsgaard would not approve of his actions, he is likely not to care. If this is the case, that is, if my cat is an agent *and* correct to be indifferent to the categorical imperative (even when its demands are explained), then Korsgaard's account

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cannot be right. The same will be true for any substantive account to which Fellini is rightly and reasonably indifferent.

Any viable and persuasive substantive account has to be able to explain away different normative commitments in order to answer Leffler's objection.[4] If it is true that agency gives rise to norms, and if it is true that many non-human animals are agents, then our theory must take one of two strategies:

(1) Strategy one for the constitutivist would be to accommodate and explain normativity *across* the species, showing that the norms that bind, bind for all agents. I am evaluable by the same standard, the same criterion, as my cat, guinea pigs, Saturnians or even fans of Glasgow Rangers. The constitutive aim of action must be constitutive for all beings we would recognize as agents.
(2) Strategy two would be to describe agency in such a way that only picks out agents of a particular type. Perhaps by showing that the sort of agency one is interested in is grounded in facts about a certain *kind* of inescapable agency (which is still sufficiently universal as to describe all the beings we would want to capture in our metaethical account), a certain structure of action, not about an agency and action *as such*.

I will adopt the second strategy. Just as the constitutivist restricts what sort of action they take to be relevant and of interest, I will restrict my discussion to describe what sort of agency I take to be relevant and of interest—viz. the sort of agency that manifests externally via *a will* of a certain kind. Acting as the 'convertor between agent and action, the will is the mechanism that gives rise to *moral* normativity. *This* normative domain binds only those agents who are constituted (I will argue) by a particular structure of *will*. If an agent has this kind of will, then they are inescapably bound to aim to attain the constitutive success condition at which actions aim. While I might acknowledge that my cat is an agent and can, therefore, perform actions—it is far from obvious to me that his actions are of the same normative *quality* as mine. This unique normative quality, I will argue, arises from the will; the structure of which is a property I do not take my cat to have.

While this account sounds weaker and less interesting than the standard constitutivist account, I think it is still of some significance if I can demonstrate that facts about willing, agency and action can explain the sort of normativity and moral reasons metaethicists are usually taken to be interested in. This account will capture *all* human agents while leaving room for non-human agents. If you are a willing being, then you are necessarily and inescapably bound to aim to attain our substantive constitutive feature.

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IV. Hegelian constitutivism: formal and substantive claims

The account on which my version of constitutivism is based is Hegelian[5]—I leave it to the reader to decide how much Hegel himself would agree with constitutivism, but I am sure that the account of willing and action on which I rely to motivate the overall picture coheres sufficiently to warrant calling my account 'Hegelian Constitutivism'. In what follows, I shall aim to enrich a constitutive picture on the substantive level with Hegel's account of willing and action. Such an analysis will lead to the following:

> (Constitutive Aim H)
> Each action expresses both the agent's essence as a free-being *and* the agent's *understanding* of their own essence as a free being.
>
> (Success H)
> An agent's action is successful to the degree the agent's self-understanding coincides with the agent's (essential) freedom. Freedom is a (or the) standard of success for action, such that freedom generates normative reasons for action.

The way we understand 'freedom' and 'essence' will determine how our theory functions on a formal *and* a substantive level, and I will spend some time demonstrating *which sort* of moral norms arise from such a position. I will then show how such a view can describe normative evaluations across those moral communities whose inhabitants inescapably participate in a certain kind of willed action. This account will also avoid a general relativism, adopting instead a form of *parametric universalism*: while freedom constitutes the evaluative yardstick, it does not prescribe a normative straitjacket.

IV.i. Willing

My strategy in this section will be to outline a constitutivist position, but rather than locating normativity in action or agency *as such*, I will argue that normativity of the sort in which we are interested arises from a certain *kind* of agency, viz. the kind of agency that expresses itself in action *via a will*. This places a restriction on the sort of things that are bound to the normativity I take to be of interest, and I take this to be a feature that can accommodate the sort of objection raised by Leffler. I also take this to cohere with the constitutivist picture because there is no space outside of this sort of willing for creatures (usually humans) we take to be included in our normative landscape.

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IV.i.i. The formal structure of the will

But what is a 'will'? If agents are the sort of things that have a variety of (often competing) preferences, values, tastes, principles, desires, etc., the will is that necessary component of agency that resolves these tensions to produce *actions*. 'Agents', for our purposes henceforth, just means those things that are *capable* of willing in the sense I outline below. We will note that this is not a species-specific definition. Some biological systems we would identify as 'human' would *not* count as agents. For example, those who are in the profound stages and depths of a degenerative coma would not be captured by our understanding of agency here *because* they do not will.[6] Further, there may be some aliens (Martians or Saturnians), or perhaps even some primates, who *are* going to be captured by this description—and consequently, on my picture, would all be bound by the same normative demands.

The action an agent does is a thing she has willed. If an agent has no will, they are not an agent. If an action is not willed, it is not an action. Acting, for agents, is inescapable because willing is, definitionally, inescapable for the sort of agents we are considering. But if agents are constituted by a will, how is the will itself constituted?

Freedom constitutes the substance of the will and it does so in two ways: first, freedom constitutes the substance of the will in the agent; second, freedom constitutes the destiny of the will of action. Action is, in essence, an ontological reproduction of the character of the agent, as such, freedom is *active* in no fewer than two senses: (1) it is internally active in that it is thinking and feeling, deliberating and resolving; (2) it is externally active life in that it produces actions that reveal, in some significant way, the internal life of the agent. These two aspects are effectively one substance. Action is the *actualizing* of the internal substance of the agent. Actions are the agent made external, concrete, publicly viewable and publicly evaluable.

Agency is posited externally via action. Agency is *destined* to posit itself externally via (willed) action. Each action has a necessarily moral component as each action expresses the (subjective) will, the character of the agent acting. And it is this character, at the level of agency, willing, and freedom, from which Hegel himself argues (like the constitutivist) *moral* normativity arises. Hegel's chapter, 'Morality', in the *Philosophy of Right,* is his contribution to the philosophy of action and aims to show how a person becomes a moral *subject*. It serves to provide us with an account of *moral* action, which, for Hegel, importantly includes *all* intentional action:

> The "moral" must be taken in the wider sense in which it does not signify the morally good merely. In French *le moral* is opposed to *le physique*, and means the mental or intellectual

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> in general. But here the moral signifies volitional mode, so far as it is in the interior of the will in general; it thus includes purpose and intention—and also moral wickedness. (Hegel 1971: 249)

Michael Quante puts the point clearly:

> He [Hegel] specifies action as "The expression of the will as *subjective* or *moral*" (R §113). He continues, "Only with the expression of the moral will do we come to *action*". The first statement declares *each* expression of the subjective moral will to be an action; the statement provides a *sufficient* condition for an event's being an action. The second statement claims that *only* the expression of the subjective moral will is action. There is *no* action that is not the expression of the subjective moral will. This second statement thus names a *necessary* condition for an event's being an action. (Quante 2004: 7)

Moral action describes *only* those deeds you will and those deeds you will are moral actions. An agent's act can be said to be her own iff the agent would take themselves as the source of a certain causal kind—specifically, the kind that is caused by their will. Like any standard constitutivist account, this puts a limit on what counts as action—reflexes, 'tics', etc., do not count as an agent's action as the agent does not recognize that action as their own. Such behaviours lack deliberation and, consequently, are unintentional. You are, in these cases, an instrument of heteronomy or chance—you are not acting, you are being acted upon.[7]

Emphases on 'my action' and 'expression of my self' demonstrate the similarity between myself and Korsgaard not only in spirit, but in letter also. For me to be an agent, I must be capable of acting in such a way that I can describe the action as 'mine'. Each action is attributable to the agent who performed it and, as such, we are able to evaluate the agent with reference to the action. Agents are identified by, and identical with, their action.

Action is the 'external objectivity' of my subjective 'inner end'. The moral will necessarily contains three aspects: first, the agent's purpose, second an agent's intention and third, the *good*. Action must have these three features to count as moral (the lack of *any one* of these conditions entails that the deed done was not an action).

'Purpose' claims that we are responsible for only for those elements of action we will—'the right of the moral will to recognize, in its existence, only what was inwardly present as purpose' (*PR* §114A)—this thought is stated and

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restated clearly by Hegel himself throughout the *Philosophy of Right* and also in the third volume of his *Encyclopaedia*:

> Now, though any alteration as such, which is set on foot by the subjects' action, is its *deed*, still the subject does not for that reason recognize it as its *action*, but only admits as its own that existence in the deed which lay in its knowledge and will, which was its *purpose*. Only for that does it hold itself *responsible*. (*ES*: §504)[8]

With 'intention' arises the idea that what the agent does makes explicit reference to those things *valued* by the agent—intention outlines the *reasons* the agent considers her action to be *valid* (justifiable). Answers to the question of intention will concern themselves with answering what value the action has *to the agent*.

Finally, questions regarding 'the good' aim to eradicate the relative nature of intention as ultimately valid. Good actions are those that are not only 'relatively valuable' to the agent ('good *for me*') but contain something universally valuable (good *as such*). Again, Hegel himself gives us the criterion for what counts as a 'good' action with a simple use of the word 'should':

> The first division in [moral] action is that between what is purposed and what is accomplished in the realm of existence; the second is between what is present externally as universal will and the particular inner determination which I give to it; and lastly, the third factor is that the intention should also be the universal content [of the action]. The good is the intention, raised to the concept of the will. (*PR*: §114A)

Good actions are those performed by a token of an agent that expresses and conforms to the demands of agency *as such*. Thus, it is a constitutive aim of all intentional action that it is necessarily formed by *and is directed towards*—or to use Hegel's own language, '*destined*' towards—the description and demands of agency. These demands of agency are structured by an account of willing that takes 'freedom' as its *substance*.

IV.i.ii. The substantive content of the will

'The will is free' is a categorical assertion and Hegel takes this to be definitionally, conceptually, and analytically true in the same way as the assertions 'bodies are extended' or 'God is omnipotent'. How are we to be persuaded by the claim that if a will is not free, it is not a will? Our strategy is to firstly describe the components that constitute the will, and then show that a certain conception of the idea of freedom analytically arises out of this. My Hegelian definition

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of the will includes the confluence of two irreducible and necessary components. Firstly, there is the universal aspect of the will, which is recognizably Kantian and describes our capacity for abstract thought—thought that is free from determinacy and impulse. It is consciousness's ability to be conscious of consciousness itself, describing our power to think about thinking. It is pure reason. Importantly, Hegel thinks this aspect of the will is not identical with the will itself as it is purely formal and contentless—if the universal will were the will itself, then each thinking subject would be indistinguishable from the next and there would be no 'determination of thought' by which means we would normally identify agents, or through which we could act. I take Hegel to mean something like the universal aspect of the will describes our having a deliberative principle, but does not describe the content over which we deliberate. While deliberation is important, and being able to participate in abstract reasoning is necessary for freedom—it remains but a skeleton of agency if no content is inserted.

This aspect of the will gives us an (incomplete) understanding of freedom; we are able to abstract from determinacy and therefore able to free ourselves from (immediate) impulse (thus also endowing us with the capacity for 'choosing')—via this aspect of the will, we do not become constrained, limited and determined by each and every desire that arises in us.

But this form of freedom, the freedom of indeterminacy, is not freedom proper. No deliberation is possible if there is no content over which to deliberate, and no action can emerge from nowhere. This leads us to the second aspect of the will, the 'particular will' which is populated by our desires, drives, inclinations, wishes, feelings, etc. It gives shape to us as determinate beings. If the universal will is bare, empty and formless—picking out agents as a 'kind', the particular will is raw specificity and provides us with the range of content by which we might come to be identified as an instance. Any account of the will must include some sort of description that picks out the aspect of inner lives that arises from *desire*. I do not 'merely' will, I will *something*. Both Hume and Hobbes[9] mistakenly reduce willing to *this* single aspect and while there is something intuitively plausible in saying a free will consists in being able to satisfy one's (first-order) desires, it seems incomplete as a description of freedom if it does not invoke some sort of measure describing our ability to choose *between* desires. If we take a will to be free to the extent that they can indulge any desire they might have at a given point, then we are slaves to impulse and whim. This is undesirable as an account of willing for two reasons. Firstly, agents do not feel as if they are 'slaves to the passions'—the phenomenology of willing, the ordinary experience of us *qua* agents, does appear (albeit, perhaps falsely) to include some sort of deliberation. If an account of willing does *not* attend to this experience, then it is going to be weaker than an account that does (if all the same facts

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are accounted for). Secondly, if our will is reducible to the desires *themselves* then agency becomes fluid and the thing that picks me out as a subject becomes unstable. At one moment, my will is identified with being 'a wanter of apples', the next 'a wanter of coffee', the next 'a wanter of porridge', and so on. The thing that picks out 'me' as a subject is created and obliterated in a constant flux of fancy.[10]

The next move is to unify both the universal and particular aspects of the will. Where others (Kant, Hume, Hobbes) have confused willing and freedom for one particular aspect of the will, or one partial description of freedom, Hegel wants to claim that willing and freedom *proper* must involve some sort of mechanism by which choosing in accordance with some principle of self-determination is at play. The mechanism Hegel argues for is a sort of proto-Frankfurtian discussion about second-order desires (Frankfurt 1971). Willing must involve making a value judgement about what impulses we *want* to indulge. This formal weighing between desires provides the mechanism by which the unification of the formal, universal aspect of the will, and the desire-based, particular aspect of the will is achieved. Willing is willing *something* upon which we have given some consideration. Through the reconciliation of the universal and the particular we are able to look at our actions and see ourselves as their cause—the desires we have may arise in us (that is, they are 'given'), but we are self-determining in that we *choose* through a process of reflective abstraction which desires we hold and pursue, which we allow to go unsatisfied, and which we relinquish. Such a concept of the will *necessarily* has freedom as its substance. Freedom, at this level of description, is no more than *actively* choosing (opposed to actions performed automatically, without thought) which desires to satisfy. The will's determinations are its *own*.

This gives us the substance of the will. Agents are beings who will *freely*—where 'freely' is taken to mean instances where the will *expresses* or '*determines*' itself in accordance with its desires upon which it has *rationally deliberated* and reflected. Normativity is going to be determined by agency-constituting action from *this* kind of willing and the associated analytically contained understanding of freedom.

V. Constitutive aims and success conditions

'Subjectivity'—the realization that you are a particular agent *token* (I am, for example, 'Rupert', not 'Dudley') of a universal *type* (I am a rational, self-conscious, self-determining agent). To be a 'subject' is to relate this particular instantiated token to this (essentially normative) type. Allen Wood outlines this point:

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> To be a subject is to be aware of oneself as the particular, contingent individual that one is, but at the same time to relate all the particular things one happens to be to one's capacities as a free and rational being, and to regard one's exercise of the capacities as the core or foundation of one's identity as a self. (Wood 2010: 134)

Subjectivity expresses itself, its particular *and* universal nature, through action—and this is the form all action takes: 'it is the process of *translating* the *subjective end* into *objectivity* through the mediation of activity and of a[n external] means' (*PR*: §8). This brings us nicely to an initial formulation of a constitutive principle: All actions are constituted by the expression of an agent's subjective will.

Of course, this tells us nothing determinate and remains purely formal (and uninteresting). The next move is to demonstrate the *content* of the subjective will. From our account of willing, we understand that this is going to be populated by some sort of reference to 'freedom', with some sort of reference to what you *are* as a subject. 'Action as such', is tethered to an idea of 'the good' that has freedom (unsurprisingly) as its substance, and this feature provides us with our actual constitutive aim and success conditions:

> (Constitutive Aim H)
>
> Each action expresses both the agent's essence as a free-being *and* the agent's *understanding* of their own essence as a free-being.

> (Success H)
>
> An agent's action is successful to the degree the agent's self-understanding coincides with the agent's (essential) freedom. Freedom is a (or the) standard of success for action, such that freedom generates normative reasons for action.

Freedom is the necessary normative ground for action—action presupposes and expresses this freedom. What the agent uses this freedom *for* demonstrates their effectiveness as a rational agent—by which I mean something like how well the agent is able to construct sound hypothetical imperatives. The 'rational structure' of action allows us to assess how well the agent, as a 'particular' relates herself to the 'universal'. An agent is good in relation to the degree at which she acts in conformity with, and mindful of, her universal nature, while at the same time satisfying her particular (deliberative) interest; freedom constitutes the substance and the destiny of the will—how well the agent (as substance) attains this destiny is the measure of how (functionally) good the agent *is*. Being aware, or, at least,

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'becoming' aware, of this substance as subject, allows the agent to relate to the good in a much more determinate way and thus allows the agent to act in a more self-determining (self-referential) way—thus achieving her destiny as a fully free subject.

Two claims concerning moral epistemology are required at this stage. The first is trivial. Acting intentionally requires us to be free to do so. If I decide to play chess with a friend, and I do indeed do this, then I must have been free to do so (how else could I have played?). Freedom is presupposed for action such that freedom is a necessary condition for action. The second claim is not at all trivial. By acting in the world, a good agent (one who is sensitive to the sort of feedback the world will give) will develop a better understanding of her essential nature as a free agent—the agent will develop a better understanding of what *exactly* this freedom is, and what *exactly* this freedom (essential nature) requires her to do. There are two possible ways to interpret the second claim:

1. An agent *should* act in such a way to clarify and maximize their (essential) freedom.
2. The agent, in acting, inescapably *aims* to clarify and realize their (essential) freedom.

For my purposes, we should align ourselves more with the second interpretation than the first.

Realized freedom is the (ultimate) evaluative measure of action. Good actions are those that demonstrate (agential) freedom fully. One cannot both be acting 'intentionally' *and* acting in any other way than with reference to freedom: Freedom is the ultimate measure of all intentional action. Exculpations exist and seem to exist in relation to *how* intentionally the person *can* act—the class of people removed from the sphere of responsibility are done so with regards to how poorly they are able to participate in intentional action (the assumption being that children, and other impulse-driven beings have (at best) a diminished capacity for deliberation).

While it is possible to be absolved from responsibility, usually by claiming that the threshold for agency, and therefore action, has not been met, it is not possible for this to be the case for agents who have simply acted badly. Removing the yardstick of freedom (and responsibility) does harm to the agent by denying them the dignity that comes with being a person. Human beings ought not to act *only* from impulse and can and will be judged in relation to how free, how deliberately, they acted. As subjects, we have a *right* to be held responsible for our actions.

We now have two pictures, one of agency (free 'in itself' and 'expressive'), one of 'the good' ('realized freedom'). We have a (Hegelian-enriched)

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outline of what an agent is, what a good agent is, and finally, why *all* agents inescapably aim to be good qua agent. 'The good' (with reference to agency (and in turn, with reference to freedom)) is itself the source of norms and a Hegelian constitutivism will adopt the standard description of what counts as an action *and* reasons for norms being originary (as opposed to transferring). This enables us to have an answer to Enochian shmagency objections around the unifying paradox by opening up the space for differential realisability—agents inescapably express their actual essential substance *and* the way *they understand* that substance (which will conform to a greater or lesser degree to the actual substance depending on their stage of moral maturity)[11]—as well as the 'why care to meet the obligations of agency and maximally express my essential substance?' challenge: because we inescapably *aim* to do so. That is just what willing *is*.

How does Hegelian constitutivism on the formal model answer Lefflerian challenges? It can do so in two ways:

1. It only binds agents who have a certain structure of will. If something, like my cat (Fellini), does not have a will structured in accordance with the Hegelian picture, then that thing is not an agent *in the relevant sense*, that is a *moral* agent.
2. If we want to still describe my cat as an agent, and therefore inescapably bound to aim towards our success condition, we could claim that my cat necessarily aims towards acting in accordance with his essential normative kind, 'cat'. We could then speak meaningfully of Fellini being a bad instance of his kind or a good instance of his kind to the degree to which he participates in his kind-defining norms. These kind-defining norms would be different from my kind-defining norms, because my agency is of a different kind to Fellini's agency.

I think either response is sufficient to weaken the force of Leffler's new shmagency challenges, and I will leave it to the reader to choose which they find more compelling.

VI. Conclusion

This paper had a modest aim and an ambitious aim. The modest aim of this paper was to demonstrate that there is a substantive form of constitutivism that can at least *meet* the challenges and objections raised by Leffler and the like. This shows only that there is at least one viable constitutivist model. The ambitious

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aim was to show that there are good reasons to find this one viable, Hegelian, constitutivist model *persuasive*. I will be happy if either of these aims have been achieved and I am hopeful that the more ambitious aim functions in that those who read it do not find it worthy of being immediately discarded.

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Notes

1. There are, naturally, many contenders claiming to be *the* constitutive feature. A helpful summary of such views can be found in *Varieties of Constitutivism* (Hasse and Mayr 2019).
2. This is, of course, part of his criticism of Korsgaard.
3. Many argue that this is, perhaps, a fair criticism of Korsgaardian constitutivism, but not fair as a criticism of constitutivism generally. See, for example, *Agency and the Foundation of Ethics* (Katsafanas 2013: Chapter 4) for a clear discussion of this problem. A slight modification and defence of Korsgaard against this charge can be found in *The Hegelian Solution to the Paradox of Self-Constitution* (Hanisch 2017).
4. Of course, the most famous account able to do this is the one offered by Velleman (2015), who claims that constitutivism, if it is viable, has to be comfortable with relativism—and this is not a bug, but as a feature.
5. There is, of course, already a Hegelian contribution to the constitutivist debate, viz. the one given by Christoph Hanisch (2017). Hanisch's project is to show how infusing a Hegelian account with Korsgaard can help the constitutivist overcome the paradox of self-constitution (how can one unify oneself if one is not already a unified agent?). This paper is far more ambitious only in that I hope to articulate a fully-fledged Hegelian constitutivism, rather than developing a mechanism to supplement a different constitutivist account.
6. If you hold the view that those in a coma ought to be treated *as if* they are agents, then I am sure Hegelians will have no quarrel with you. If, however, you have the intuition that human beings in such a state *are* agents—then this would be a genuine point of tension. Hegel would argue that an agent without the capacity to will is, in no meaningful sense, an agent at all. Let us take this to be a descriptive, rather than a normative, claim for now.
7. This coheres with Korsgaard's discussion quoted above.
8. Abbreviations used:

ES: Hegel, G. W F. (1971), *Philosophy of Mind: Part Three of the Encyclopedia of Philosophical Sciences,* trans. W. Wallace. Oxford: Oxford University Press.

PR: Hegel, G. W F. (1991), *Elements of the Philosophy of Right,* ed. A. Wood, trans. H. B. Nisbet. Cambridge: Cambridge University Press.

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SL: The Science of Logic, ed. and trans. K. Brinkmann and D. Dahlstrom. Cambridge: Cambridge University Press.

PS: Hegel, G. W F. (2019), *The Phenomenology of Spirit,* trans. T. Pinkard. Cambridge: Cambridge University Press.

9. Hobbes seems to be more at the forefront of Hegel's discussion here and he seems to be mindful of a 'vector-based' account of willing as the archetype of the view against which he is arguing.

10. Korsgaard (2008) wants to argue in a similar vein, claiming that the will, or the self, has to achieve some sort of diachronic stability in order to be considered a will proper.

11. This is given a complete and explicit treatment in Hanisch (2017).

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