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Abstract

Positivism, in its standard outlook, is normative contextualism: if legal reasons are content-independent, then their content may vary with the context or point of view. Despite several advantages vis-à-vis strong metaphysical conceptions of reasons, contextualism implies relativism, which may lead further to the fragmentation of the point of view of agency. In his Oxford Hart-lecture, Coleman put forward a fresh account of the moral semantics of legal content, one that lays claim to preserving the unity of agency while retaining the social facts thesis, which has been a key intuition of positivism. The present essay identifies potential weaknesses with this account and proposes a reconstruction along rationalist lines: Firstly, it advances a descriptive account of reflective agency that is delivered in terms of a modest conceptual analysis; secondly, this is combined with a context-dependent or 'buck-passing' account of value, which illustrates that substantive reasons for action must be anchored, ontologically speaking, to particular social practices (Social Dependency Thesis). In the end the unity of agency comes at an affordable price, for it is not longer necessary to resort to metaphysical necessity and the most demanding conditions this imposes, in order to defend it.

0. Opening Remarks

The first part argues that positivism harbours contextualism. Contextualism leads to the fragmentation of the agent's point of view with many an undesirable consequence for the coherence and effectiveness of normative discourse and action. To countenance its bad effects a unified agent's point of view must be postulated. The second part opens by pointing out the main advantages of a single agent's point of view and moves on, subsequently, to set out conditions for its construction: firstly, social practices ought correspond to the condition of rational determination; in other words, their factual, non-normative components must be brought to make normative sense in the light of normative principles that apply across the board of agency. Secondly, those principles should not be fixed in a rigid way, on pain of giving rise to a 'talking past each other' objection. The third part looks into one of the most prominent contemporary efforts to reconstruct a single agent's point of view, i.e. Jules Coleman's conception of a content-independent normativity, and discusses some potential problems arising from it. Finally, the fourth part proposes an fresh account of a single agent's point of view. The agent's point of view is illustrated through a two-layered construction: the first layer comprises principles that are grounded on modest conceptual analysis in the light of the fact that all agency is reflective. These principles succeed both in avoiding the 'talking past each other' objection, and in satisfying (at least partially) the rational determination condition: in introducing the point of view of agency, they place any social practice under the obligation of justification, requiring that the non-normative particles of any practice be oriented towards the magnetic pole, as it were, of reflective agency. This is not sufficient,

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however, to explain the full scope of the agent's point of view. A second layer of normativity is postulated: this incorporates particular substantive principles that depend, ontologically speaking, on the way specific social practices are played out. This is a 'buck-passing' account of value, which respects the social dependency of value (principles) as a condition for avoiding radical conceptual disagreement, but also as a condition of remaining inside the agent's point of view. Here the properties of particular principles may be legitimately fixed across possible contexts/worlds, for this 'fixing' has been authorised through the principles of the first layer of normativity. At this level legal and moral reasons join forces in discharging the burden of rational justification, as there is no fixed hierarchy between them. What matters on this view, in contrast to more narrow views on positivism, is the dependence of all reasons on some practice; not whether reasons are content-independent in the sense of drawing sharp distinctions between the various practical domains (law, morality, ethics).

1. Positivism *qua* Contextualism

Positivism, on the traditional reading, harbours normative contextualism: in a nutshell this is the view that the context of uttering the same normative sentence may cause it to vary its truth-value without contradiction. What would be, under normal circumstances, a violation of the law of the excluded middle is explained away by the fact that different normative contexts allow different evaluations of the same sentence.¹ Take the sentence: 'No one should profit from one's own wrongdoing'; this is false as uttered in a legal context; and true as uttered in a moral (or other non-legal) context. On the face of it is coherent to report that '*No one should profit from one's own wrongdoing* is true and false'. Or at least this is what positivism *qua* contextualism would have us believe. Before addressing the main shortcomings of this view, let me review the philosophical background on which the contextualist semantics rests.

No doubt, contextualism is inspired by a noble cause: to account for apparent inconsistencies in speech and preserve the diversity of ordinary discourse. A clear example, where contextualism holds true non-controversially, is the case of sentences involving indexical terms: when Mary says 'I am a woman' she makes a true statement; were the same sentence to be uttered by John, however, it would be false. Is there an inconsistency in affirming that the sentence 'I am a woman' can be simultaneously true or false depending on the speaker's point of view it is uttered? Surely few would disagree there is none. It is part of the very meaning of indexical terms that they be understood in this way. This is illustrated, after all, by the fact that, in reporting the speech of the other, John and Marry would not disquote on 'I', although they would in reporting their own speech.²

However, things become more complicated when contextualism proposes to generalise the structure of indexicality to any sentence uttered from a point of view. Here is a typical example: 'Mary knows that the world was not created yesterday'. According to the contextualist, uttering this sentence in the context of a seminar of

¹ Notice that context refers only to the point of view and of the circumstances of evaluation of a sentence: in other words, changing context does not entail switching worlds. See Williamson 2005 as above.

² See Williamson 2005 in G Preyer and G Peter, *Contextualism in Philosophy*.

epistemology would make it false. Contrariwise, the same sentence would remain true in any other ordinary context. It follows, that 'know' may coherently exemplify two different contents: know(high) in the epistemological context and know(low) in ordinary contexts. The contextualist argues that the case with 'know' is the same as the case with 'I'; hence that there is no contradiction in reporting that Mary both does and does not know that the world was created yesterday. But surely this strikes one as odd. If not for any other reason, just for the fact that, other than in the case of indexical terms, in reporting the utterance about Mary we would intuitively feel inclined to disquote on 'know'. For it would be strange to assume that 'know' includes in its meaning context-dependence in the same manner that 'I' or other indexical terms do. So how does contextualism explain away this contradiction?

The claim here is that a given sentence expresses different propositions as uttered in some different contexts. As uttered in the epistemological context 'Mary knows...' expresses proposition P; conversely, as uttered in an ordinary context the very same sentence expresses proposition Q. This is a remarkable construction: for although the utterance of the sentence in the epistemological context amounts to the negation of the same sentence in the ordinary context, the proposition it expresses in the epistemological context is not the negation of the proposition it expresses in the ordinary context. To put it differently, the apparent contradiction that manifests itself at the level of sentences does not translate to a contradiction at the level of propositions; hence, there is no violation of the law of the excluded middle, as it might have appeared at first glance. This gives the contextualist view its great advantage over relativism. While the relativist answer is that different speakers hold different claims to be true *relatively* to them, the contextualist solution is compatible with the possibility of objectivity: even if the same sentence may be evaluated differently in different contexts, propositions are as absolute as you like.³ For the negation of 'Mary knows...' in the epistemological context amounts to the negation of proposition P; however non-P is not the negation of Q, or the proposition expressed by 'Mary knows...' in the ordinary context - in other words the apparent contradiction withers away. With it, we gain insight into a pluralistic understanding of thought, action and the world. As regards normative contexts, in particular, contextualism opens up the possibility to account coherently for the pressing need to accommodate the various different normative points of view that pertain to contemporary ethical, moral and legal debates without making any detrimental commitments to relativism.

Positivism upholds contextualist semantics in its fundamental distinction between the internal and the external point of view: roughly speaking the same normative sentence 'N' can be evaluated differently as uttered from the internal point of view than as uttered from the external point of view; it is, then, coherent to affirm that 'N and non-N' without any contradiction. As expounded earlier this affirmation does not contradict the law of the excluded middle, because the same sentence corresponds to different propositions as uttered in the internal and as uttered in the external point of view. Thus 'No one should profit from one's own wrongdoing' will be true when uttered in the internal point of view, for then it is evaluated vis-à-vis a single agent's point of view; conversely it will be false when uttered from the external point of view, for here the evaluation rests on the legal context, which classical positivism sharply distinguishes from the agent's point of view. Once again reporting that 'N and non-N'

³ See Williamson 2005 *ibid*.

is not contradictory, for the negation of the proposition of the internal point of view is not tantamount to the negation of the proposition of the external point of view.

And yet, contemporary positivists, with prominent amongst them Jules Coleman, have made explicit their discomfort with the fragmentation of the agent's point of view as manifested by the contextualist architecture. Before moving on to address specific problems of contextualism in the normative domain, and the reactions those have prompted, I shall sketch briefly the key problem that lies in the heart of contextualism. Contextualism achieves coherence at a relatively high price: the reason why speakers in different contexts are not contradicting one another is because they *are talking past each other*; in individuating different propositions, their sentences fail to engage in meaningful disagreement. Elegant a solution as it may be, contextualism leads to the fragmentation of meaning, thought and eventually action, fragmentation that moves it closer to the neighbourhood of relativism. This fragmentation has caused the unease of contemporary positivist philosophers who desire to move beyond a sterile separation of normative contexts (traditionally expressed as the 'separation thesis'), with a view to accounting for the normative nature of legal reasons for action, such as belong to a unified agent's point of view. The following two parts track one prominent such effort and assess its success to flesh out legal reasons as normative reasons, on a par with reasons of a unified context of agency. Finally, part four proposes a different account of the point of view of agency against the background of a number of misgivings against the positivist proposal.

2. Contextualism and the Normative Question

Let me take stock: semantic contextualism is the view that differences in the truth-values of the same sentence are to be coherently accounted by the difference in the context of utterance. Different contexts individuate different propositions, with the result that the negation of the same sentence does not amount to the negation of the same proposition. However, semantic inconsistencies make sense only with respect to propositions; hence, no contradiction is in place. This view comes at a relatively high price: a sentence and its negation can consistently co-exist only if they exemplify distinct propositions, i.e. only if they express different meanings. But then those who utter them are simply taking past each other. In the end coherence comes through eschewing communication. How does this consequence play out in the domain of reasons for action?

For the purposes of the discussion reasons are considered to be facts corresponding to true propositions. In practical communication between agents such propositions are expressed via assertive normative sentences. On the contextualist view the same normative sentence will individuate a different reason for action as uttered in some different contexts. Arguably, for any given normative context N , we may distinguish between two points of view: the point of view of the agent (internal point of view) and the point of view of a speaker (external point of view). Given these two contexts, the same normative sentence can be evaluated differently. Suppose that the agent is uttering S : 'no one should profit from one's own wrongdoing'; while the speaker says (non- S): 'someone may profit from one's own wrongdoing'. On the contextualist view, there is no contradiction, for each context individuates a different proposition. The proposition of the agent (P_a) will express reason R_a : *Morally speaking it is wrong to profit from one's own wrong*; while the proposition of the speaker (P_s) will

express reason Rs: *legally speaking it is right to profit from one's own wrong*. Despite the fact that the two sentences contradict each other as uttered by the agent and the speaker respectively, the contradiction is only apparent, for in actual fact the sentences individuate two distinct propositions. Thus the negation of Pa will not amount to the negation of Ps. What is more, while the evaluation of the same sentence varies with the context, the proposition that corresponds to each context is *absolutely* true (or false). In conclusion, the reasons expressed by either of Pa and Ps are valid reasons for action.

Whereupon the following question arises: 'how can something be a reason for action if it doesn't count as one for the agent?' What is at issue here is a wider problem, one that has been addressed in the past as the *normative question*.⁴ This submits that no reason can be construed independently of the agent's point of view, on pain of losing its normative status. For something acquires the status of a reason for action by remaining relevant to the practical problem of the agent.⁵ Further, 'remaining relevant' means to be capable of offering a justified solution to the practical problem in question, where justification is a notion that is agent-relevant in a deep sense, i.e. in depending on the reflective capacity of the agent to assess reasons from the first person perspective. It follows, that the contextualist reasons or reasons from a point of view are no longer concentrating on the relevant practical problem for the agent and go amiss of their purpose to constitute normative reasons. Insofar as positivist reasons for action adhere to the contextualist model (i.e. they constitute reasons for a point of view) they will fail to become reasons for actions proper.

Fortunately there are few (or none) amongst contemporary jurists who would disagree that legal reasons must be construed on a par with other normative reasons. Positivists and non-positivists alike agree that legal reasons are genuine reasons for action that play a justificatory role in legal reasoning.⁶ To that extent there is a consensus about a single agent's point of view being crucial in determining reasons for action or about the fact that legal reasons must partake of the same kind of normativity as do other reasons of action. That said, different theorists give different accounts of the source of normativity of legal reasons. This is not surprising given that law is a social phenomenon that has a strong factual pedigree, which must be accommodated by the various accounts of normativity. Even if law's normativity needs to be accounted for on a par with the normativity of morality or ethics, law's factual character poses a puzzle of incorporation of social facts into the account of normativity.⁷ Standardly the variations amongst the available accounts of legal normativity, can be explained by the different weight assigned by different theories to the role of the social/factual nature of law in an explanation of normativity.

Leaving more precise formulations for later, it would suffice for now to allude to a general condition that any account of legal reasons must satisfy if the bad effects of contextualism, and in particular the fragmentation of the agent's point of view, are to

⁴ See C Korsgaard, *The Sources of Normativity* (Cambridge, CUP, 1996).

⁵ See the similar vocabulary in Williamson 2005.

⁶ Coleman has expressed this view by arguing against the prominence of the separability thesis – see his Oxford Hart-lecture. See also the papers of Raz and Alexy in G Pavlakos, *Law, Rights and Discourse* (Hart Publishing 2007).

⁷ The issue is of extreme relevance to the question of contextualism also: standardly, the reason why positivism proposes a special 'legal' point of view is the very fact that law relies on social practices.

be avoided. This condition derives from asserting the priority of reasons over facts in the order of explanation of legal normativity.⁸ The condition suggests the most plausible answer I am aware of to the question about the right proportion between reasons and facts in an account of normativity. This is the rational determination condition (RDC), which Mark Greenberg has suggested in a recent paper.⁹ According to RDC for the facts of any legal practice to determine the content of the relevant legal norms, more than a relation of supervenience is required: all that supervenience can generate is metaphysical determination, or the condition that the facts of a particular legal practice LP determine *factually* a legal norm LN across possible worlds. However, more is needed in order to establish the *normative* relevance of social facts to the content of any legal norm. Rational determination captures this requirement in pointing to normative entities (for simplicity *reasons*) that make the social facts of the practice relevant to the content of legal norms. More specifically, Greenberg proposes a two-stage model for cashing out rational determination: In a first stage what determines the truth of legal propositions are models, or set of rules, that make (rational and non-opaque) connections between the factual components of the practice and the content of legal norms. In a second step, models must be validated by reasons. On pain of failing to provide for rational determination, reasons must be conceived of as being external or independent of either the facts of the practice or the legal norms they purport to connect. Finally, Greenberg proposes to understand reasons not merely as rational but also as evaluative standards (value facts); value facts are, in his words, “all-things-considered truth(s) about the applicable considerations – the Truth, for short.”¹⁰

The particulars of Greenberg’s proposal aside, the crucial point he makes is that the connection between the factual components of legal practice and the content of legal norms must be one that is *normative*, along the lines of RDC. Thus, a great deal of the success of any account of law’s normativity will turn on how we conceive of the reasons that validate our model of rational determination. Here of course the problem of contextualism and the relevance of the normative question resurface. Let me sum up the point: we started by showing that contextualism leads to agents’ talking past each other, what causes contextualist reasons for action to lose their normative status. This conclusion was combined with Mark Greenberg’s suggestion that a rational determination condition must obtain between the facts of legal practice and the content of legal norms. In this manner RDC was deemed to be a requirement amounting from the rejection of contextualism and the awareness of the normative question. This shows precisely, that RDC is not self-standing: it can only cash out law’s normativity if it stays in line with the conditions of a unified agent’s point of view, such as the one postulated in the context of the normative question. Because the search for an adequate agent’s point of view concerns as much legal reasons as does those extra-legal reasons that purport to satisfy RDC. In other words, it is more than the content of the law that needs to be in line with the point of agency: also the

⁸ Although there may exist still some jurists who do not endorse this condition, I take it to enjoy as universal a consensus as any, when it comes to complex philosophical issues, given that it is accepted by the main exponents of positivism and non-positivism alike.

⁹ Greenberg, ‘How Facts Make the Law?’ in LT 10, 157-198.

¹⁰ See M Greenberg, ‘How Facts Make Law?’, *ibid.* (at 189). Interestingly, Dworkin argues that MG connects values only indirectly with legal propositions, for, actually, in his theory values are only standards for the evaluation of theories (models), not legal propositions themselves. See S Hershovitz, *Exploring Law’s Empire*, p. 310-311.

reasons, which ground the rational determination of the law in connecting the facts of the practice with the legal norms, must cohere with it. Depending on one's understanding of the agent's point of view and the type of reasons or values this authorises, the project of rational determination will be more or less successful. To that extent, it is simply not enough to ask 'how facts make the law'? One ought also to ask 'how values make the law?' The first question merely postpones the normative question to the 'meta-level' of rational determination. But it is the answer to the latter question, the one about values/reasons, which will determine the success of the rational determination of legal norms.

This is an important point. Its urgency is illustrated by the great diversity that pertains to accounts of value offered by philosophers who otherwise agree on the validity of RDC. Thus, scholars as diverse as Coleman and Dworkin would agree on RDC, while disagreeing in their account of the reasons that constitute the agent's point of view. I shall have to say a few things on Coleman's moral semantics thesis and his account of content-independence in later passages. Until then I would like to focus on a general condition that ought to constrain successful accounts of the agent's point of view: accounts of reasons or value ought not lead to conceptual disagreement between the various parties of the dispute. Such disagreement amounts when an account attempts to fix essential properties of reasons/values. This takes place when a substantive moral theory claims for itself metaphysical necessity, or the condition that normative properties remain stable across possible worlds. On a successful characterisation, this leads to something like the *semantic version of Moore's open question argument*:¹¹ if the property(ies) *being right, wrong, just* and so on are fixed according to any of the available substantive moral theories (Utilitarianism, Deontology, divine Command Theory, Libertarianism, Interpretivism etc), then any disagreement about the meaning of the relevant normative concept will amount to conceptual disagreement whereupon parties are *talking past each other*.¹² Coleman brings this point to our attention vividly when he says:

...if an adequate account of law must make reference to the values..., we are going to run into a number of familiar philosophical problems. For example, we will have a hell of a time explaining the possibility of meaningful disagreement using the same concept because there is some reason to think that a utilitarian and a libertarian are not using the same concept of law.¹³

This of course is highly undesirable and would lead to a fragmentation of agency, albeit from a different route than the one suggested earlier, with respect to the semantics of contextualism. If, conversely, we wish to ensure that parties in normative disagreement are still disagreeing about the same concept of normativity, then we need to specify quasi-descriptive sentences that state the point of view of agency, without fixing the substantive properties of particular reasons/values in any manner that would disable the possibility of substantive disagreement. Scanlon proposes:

¹¹ See T Scanlon, 'Wrongness and Reasons' in *Oxford Studies in Metaethics*, vol 2, 5-20 (at 12-13).

¹² Ibid.

¹³ Coleman, OJLS 606-607.

It might be that the parties to such disagreement are using the words 'morally' wrong to express different concepts. If this is so then they are simply 'talking past each other' when one says 'This action is wrong' and the other says 'No it is not.' But if they are using the words 'morally wrong' to express the same concept, such as 'must not be done' or 'violates standards we all have good reason to treat as authoritative' then there can be still disagreement between them. For one thing, they may disagree about what standards we have most reason to take as ultimate standards of action. More fundamentally, they may have conflicting views about which reasons suffice to justify ultimate standards of conduct.¹⁴

Such definitions allow us to accommodate the possibility of substantive disagreement about reasons without slipping into devastating conceptual disagreement. They are definite descriptions, amounting from modest conceptual analysis, and keep meaning constant across different contexts (and possible worlds);¹⁵ their great strength is that they leave room for picking out different substantive properties depending on the context or the practice on which we focus. This model is particularly apt for legal reasons, given the need to explain their content in line with their dependence on particular social practices.¹⁶

There are many similarities between such a quasi-descriptive account of the agent's point of view and the descriptive project of Coleman's inclusive positivism (at least in its more recent version). A key point of similarity lies in the claim that value can be practiced, i.e. is that it is possible to have reasons for action that are *content-independent*. In particular, content independence entails that reasons for action *are not fixed* in advance of but are constituted within legal practices – what leads us to eschew the sceptical effects of radical conceptual disagreement.¹⁷ But the idea of content-independent reasons must be scrutinised for it may become vulnerable to either of the two horns of the following dilemma: the first horn suggests the revival of contextualism. Content-independence may suggest that reasons are practice-dependent through and through. This, however, would mean to obliterate the condition of rational determination, which requires a normative account of how the facts of any social practice can add up to reasons for action. The second horn suggests that, with a view to escaping contextualism, one must implicitly accept the idea of some strong, practice-independent conception of agency. This of course won't do

¹⁴ *ibid* 13.

¹⁵ For more details of this construction see part 4.

¹⁶ This model of substantive disagreement is the opposite from the one often rehearsed by Ronald Dworkin: Dworkin submits that the fact that two parties disagree about the property of rightness can be accommodated as an instance of genuine disagreement only if we presuppose that they are referring to the same property (e.g. integrity). Besides committing one to the semantic version of Moore's fallacy, such a strong condition for genuine disagreement would require that parties may refer to the same property *unbeknown* to them. Which is to say, there would be no reason for determining which amongst the proposed properties is the right one, other than pure serendipity.

¹⁷ This is also illustrated by the fact that inclusive positivism rejects the traditional separation of legality from normativity, which is prone to lead to the accusation that law is through and through contextualist.

either. For in this case inclusive positivism would be evoking the sceptical results indicated by the semantic version of Moore's open-question argument.¹⁸

In the next section I look in detail into Coleman's strategy to flesh out a content-independent point of view of agency in the framework of inclusive legal positivism. After locating a number of ambiguities that may fuel criticism, I propose, in part 4, a strategy for redeeming the agent's point of view through a modified, multi-layered account of normativity. In the end what remains from the idea of practice in positivism is the fundamental intuition that values are practice-dependent, but not that there can be any real separation between the different domains of value. This picture is underpinned by a rationalist explication of the point of view of agency, one that explains it through a most fundamental claim to justification.

3. From Inclusive Positivism to the Moral Semantics Thesis: An Attempt to Restore the Agent's Point of View

What makes traditional positivism succumb to contextualism is the insistence on content-independence: this derives from a separation of legality from the quality of normativity: as Coleman says, positivists have gone to great lengths to distinguish legality from moral imperatives with a view to defending the social facts thesis, or the proposition that the validity of laws depends on social facts only. This has led to a separation between the content of propositions of law (legal reasons for action) and the property of legality/illegality which attaches to them.¹⁹ Thus, in traditional positivism content-independence stands for the separation of legality from reasonhood, for whatever is part of the content of a proposition cannot, on pain of contradicting the social facts thesis, feature as a property of legality. This leads to the almost absurd claim that when the law figures in our reasoning its content does not. Legal agents are, to use a well-rehearsed metaphor, like being located in Searle's Chinese room: when they act on the law, they do not act for a reason but on the advice of a translation manual. This leads to a fatal fragmentation of the agent's point of view resulting to a serious disability to explain the normative force of legal reasons as a species of the more general capacity of agents to engage in normative behaviour.

Coleman, has been prominent amongst contemporary jurists to undertake a reconstruction of law's normativity with a view to avoiding the bad effects of the fragmentation of agency that contextualism encourages. Under the influence of some recent philosophical work by Mark Greenberg and Nicos Stavropoulos, he has recast the issue of law's normativity in the light of the question about how social facts make the law. He, ingeniously, has advanced a subtle explanation: instead of saying that, because of the social facts thesis, legal agency is not based on reasons, he proposes that legal reasons are indeed what guides legal agency; but that legal reasons *themselves* are content-independent and owe their normativity to their legality/illegality, which itself is grounded on social facts. This requires that one draw a distinction between:

1. The content of law: the content/meaning of propositions of law
2. reasons of law: the moral force of law as providing reasons for action

¹⁸ In addition, it would make itself redundant as an account of legal normativity, what obviously is even more damaging from the point of view of inclusive positivism.

¹⁹ Coleman, Oxford Hart-lecture, OJLS, pages

3. legality/illegality: the property that attaches to legal propositions along the lines of the social facts thesis.

Thus, on JC's proposal, what positivism denies is not the moral force of the law but instead that this moral force derives from the contents of its propositions. Instead it is submitted that the moral force depends on the fact of legality/illegality.

Coleman is quick in recognising the paradox lurking behind this junction of his argument: if legal reasons are content-independent how can it be that they are moral/normative reasons, what would require them to be content-dependent? Here a more quirky, and perhaps menacing, form of separation threatens to take over: *the separation of reason from content*. We wouldn't be overstating the point if we were to say that Coleman's whole philosophical edifice has been devoted to the defence of this *sui generis* separation. Let us rehearse some of its pivotal moments, including his more recent Oxford Hart-lecture.

All in all, Coleman's strategy faces the following challenge: it needs to introduce content in a manner that avoids to compete with the social facts thesis. This trick is being pulled off by a distinction between criteria of validity and the grounds of those criteria: while criteria of validity can contain content-dependent reasons which may feature in the validity criteria of legal norms, the grounds of those criteria are held to be social facts, having to do with the way a conventional practice is actually practiced. Coleman argues time and again in his work that it is possible to have moral criteria of legality that are actually practiced as part of a social (legal) convention.

One of the problems that have been identified is the meaning of convention, in light of the fact of substantive disagreement. One of the prominent critics, R Dworkin, has submitted that conventionality is not compatible with substantive disagreement, for this would defeat the nature of the convention as convergence of behaviour.²⁰ In reply to those criticisms, Coleman has rightly pointed out that the practice of recognition is an instance of rule-following, hence that it must refer to a normative activity that can not be exhausted only by the behaviour of those who partake of it.²¹ After all the point that distinguishes habits or sequences of repetitive action from practices is precisely the fact that practices presuppose a deeper level of normativity in whose light the surface behaviour of the social actors can be corrected, criticised or assessed. So far so good; but the question that arises is this: if indeed such a level is available, what no-one, least of all Dworkin, would want to contest, what does it consist of? The point of Dworkin would be precisely be that rule-governed behaviour as practice of that sort *CANNOT be conventional*. But there might be other ways of conceptualising practices that retain both the conventional and the reflective element.

Coleman has availed himself of Bratman's Shared Cooperative Activity (for short SCA). Here the idea is that there exist co-operative patterns of behaviour that contain patterns of reliance without excluding reliance on substantive values. Of course what is interesting at this level is *how* SCA can explain the separation between reason and content. In constituting a social practice of higher complexity, which absorbs and recasts moral reasons, SCA may be a good description of legal practices. Yet it comes

²⁰ R Dworkin, 'Thirty Years On' in JIR, pages.

²¹ Coleman, PoP, pp 80 f.

almost too late in the order of explanation to discharge the burden of illustrating how it is possible to have normative content without content-dependent reasons for action. To speak with Mark Greenberg, it does not discharge the burden of rational determination of how facts make the law. What is worse, it could undermine positivism: it may in fact be the case that positivism has already found its best explanation in game theory, i.e. that the rationality of positivism is, in the best of cases, the one of the rational fool, what would fall short of accounting for the richer normative relations of commitment that are explored by SCA. If the latter can accommodate those, this says something in its favour, but not necessarily in favour of positivism, which, at the end of the day, is more likely to be incompatible with SCA.

But there is a broader issue at stake here: even if we accept that SCA can be a way of recasting the positivist argument, there is the more pressing issue of the nature of the reasons/values that rationally determine legal practice. There is a great temptation to assume that such reasons must be conceived of in a practice-independent manner, if the idea of meaningful disagreement were to fly.²² But this is open to two, at least, objections. Firstly, if the values that make the law are practice-independent then an issue of scepticism arises: what would ever secure our access to them? To add to this, secondly, Raz has rightly pointed out that values that enjoy some universal status may be too thin or general to be able to lead to effective reasons for action, upon which remark he turns to defend his thesis about the social dependency of all values.²³ The two objections point to an issue that was touched upon earlier. What matters in the dispute about law's normativity is, surely, how facts make the law. In light of Greenberg's findings we concluded that this happens through the satisfaction of the *rational determination condition*. But the latter raises the more important question: 'how values make the law?' If facts need to be 'read' or 'interpreted' in the light of reasons (values), it is pressing to ask wherein do these reasons reside. For the dispute between positivism and non-positivism may easily resurface on the level of value: 'are there reasons that are content-independent and owe their validity to social facts?' 'Or must value be conceived of as fully practice-independent, with the danger arising that it remains unfathomable or elusive forever?' 'And with each party identifying it with whatever property they deem best, also leading to radical conceptual disagreement'?'²⁴

Once we address the issue of the nature of reasons/value the 'semantic sting' -or some other version thereof- is turned on its head: what is disputed is not so much the nature of legal practice as a deep normative practice, but rather the nature of the substantive criteria that are supposed to deliver the deep structure of practices as normative, rule-guided activities and, as a consequence, to 'demolish' any reliance on conventional criteria. That is, before an adequate account of value has been offered, one that can stand the 'talking past each other objection', it will remain an attractive option to argue that values are ontologically 'constructed' at some level within practices. Of course this does not necessarily lead to a victory of legal conventionalism, but would

²² This is a standard argument of Dworkin. Others who agree are: Stavropoulos, Greenberg.

²³ See, his Tanner lectures, published as J Raz, *The Practice of Value* (OUP 2003) especially lecture 1 (The Thesis).

²⁴ See the semantic version of Moore's open question in part 2, this essay.

certainly lend support to something like Raz's Social Dependency Thesis and the prominence of practice as regards value-constitution, that comes with it.²⁵

Let me explore a recent strategy employed by Coleman to defend the content-independence of legal reasons as practice-dependent normative reasons. In doing this I shall be asking whether this new strategy succeeds in providing an adequate account of the value that makes the law. Coleman's most recent strategy has been to focus on the semantics of normative expressions; Coleman expresses his new line of defence through the so-called *Moral Semantics Thesis* (MST). MST reconstructs legal reasons as content-independent normative (moral) reasons. One should be careful, Coleman warns, not to mistake the MST for what it is not: it is not the claim that the content of law is a moral directive; but, rather, the view that the content of law can *truthfully* be *re-described* as expressing a moral directive.

To that extent, MST is integral to content-independence as a key feature of Coleman's account of positivism, because it explains how the separation of content and reasons can be sustained: MST takes a morally free content and warrants its being re-described as a moral requirement. That true description expresses the proposition that the content proscribed by law is morally wrong.²⁶ The re-description of legal material, which is itself source-based, is based on law's point of view; as such, although it is necessary that law claims legitimate authority, it is not required that the re-description into moral terms be always successful:

"the law is a point of view about how, attaching the property of legality to content makes the moral description of the law's directives correct" (596)

In this manner Coleman believes to have discharged the burden of rational explanation of practice-facts as normative facts (reasons) that may or may not reflect morality, which, however, stand in the same line with moral reasons. In other words this move is taken to deliver the much sought-after reconciliation between content-independence and normativity.

In my view this reconciliation is still forthcoming: for it to succeed two conditions are in order; first an account of normativity that corresponds to a unified agent's point of view. Second, an account of normativity that parts from an understanding of value exclusively in terms of metaphysical necessity, or the view that normative properties are fixed across possible worlds, and instead ties reasons up with particular social practices.²⁷ Both these conditions seem to be missing from the latest version of Coleman's argument.

²⁵ For Raz's views on the matter see Raz *ibid.* SDT supports a form of global conventionalism, with regard to every practice that is a source of value, not just law. It should be mentioned that such global conventionalism could only survive if it operated under the requirement that all practice be reflective. For these claims see below, part 4.

²⁶ Oxford Hart-lecture, OJLS, p 593.

²⁷ The latter can be achieved through a buck-passing account of reasons. I.e. an account that argues that normative reasons cannot be constituted (ontologically speaking) outside social practices. All that the buck-passing account requires is reference to the unified agent's point of view, understood as the capacity of reflective endorsement. See below, section 4.

To begin with, the MST is a re-description *from a point of view*. I have already gone in some length into what is wrong with points of view, so a short reminder would suffice. Special points of view allow a shift of the meaning of normative terms with the context of agency. This results from a shift in the truth-value of normative sentences: While in context C1 (morality) 'A ought to F' is true in context C2 (law) 'A ought to F' is false.²⁸ It follows that it is coherent to assert that 'A ought and ought not to do F'. Typically it is alleged that what makes it coherent to assert conflicting truth-values is the fact that different contexts individuate different propositions; it is this shift of propositions that causes the same sentence to acquire multiple meanings, so that it can be simultaneously asserted and denied without contradiction. Such a shift in meaning amounts to a detrimental form of fragmentation, which undermines the possibility to make sense of agency in law as standing in the same line with agency in other normative domains. An immediate consequence of this fragmentation is the failure to answer the question of normativity, i.e. the question why agents abide by reasons from the first-person point of view. As Christine Korsgaard has pointed out, it is important that the reasons agents act upon be reasons for them, and not reasons from a point of view.²⁹ When an agent endorses a reason she endorses it reflectively, as being a reason for her, not from the point of view of a speaker who remains uncommitted or unreflective. In light of the above, for Coleman to comply with the requirement of a unified agent's point of view, one that can live up to the normative question, he would need to explain the content-independence of legal reasons in a non-contextualist manner: to take on board a practice-invariant 'point of view' that, however, is still capable of allowing the facticity of practice to feature in the construction of reasons. It seems that the main obstacle preventing him from doing so, is his rather robust (i.e. practice-independent) understanding of normativity. I address this next in more detail.

Secondly, it is questionable whether the re-describing strategy of Coleman succeeds in defending content-independence. The reason lies with the nature of the proposition that re-describes non-evaluative legal content as morally efficacious: nothing in Coleman's argument precludes the authorising proposition from being content-dependent itself, in a manner that would render otiose his efforts of casting legal reasons as content-independent. Here is why: assuming that the re-describing proposition purports to meet the rational explanation condition, then one may legitimately observe that in satisfying this condition the re-describing proposition contains one or more normative reasons. Here the outcome of the re-description will naturally be endowed with normativity; however this normativity would come with the price of content-dependence.

And yet this move would not be fatal if Coleman did not connect it (implicitly at least) with what appears to be a conception of reasons that is based on metaphysical necessity. This conception of reasons, naturally, resists content-independence vehemently. Let me explain why: In my view the only way to keep re-describing propositions content-independent is to postulate a thin or, to remain within Coleman's vocabulary, a 'content-free' notion of normativity which does not exemplify yet any substantive moral reasons. In the last section of the paper I shall have to say

²⁸ It should be recalled, that what causes the change is the point of view, not the facts of the situation: thus in a situation such as the one in *Riggs v Palmer*, the truth value of the sentence: 'one should not profit from one's own wrong' would be simultaneously true and false without contradiction.

²⁹ Sources of Normativity, Ch 1. See also, section two, this paper.

something more about this. For now, suffice it to say that such a thin notion of normativity could be made intelligible as including, at most, the idea that all agency operates under the requirement that it be reflective.

Judging by Coleman's arguments I would be inclined to put past him any such idea of thin normativity. True enough, his talk of descriptive jurisprudence and the benefits it implies (e.g. by avoiding radical conceptual disagreement) indicates an implicit commitment to rely on some kind of 'descriptive' or thin normativity.³⁰ However this intention is never explored to the full. On the contrary, he explicitly sets himself the task of reconciling the property of content-independence with that of being a moral reason.³¹ This and other similar statements seem to go further than the trivial statement that morality is the paradigmatic instance of normativity (which of course most would be happy to affirm). They suggest that Coleman believes that for something to be a normative reason it has to be a moral reason in a strong practice-independent or categorical sense.³² Alas, as long as reasons remain categorical in a practice-independent manner, they will threaten the importance of practice in its capacity to create reasons for action. What is more, they will succumb to the accusation that they lead to radical conceptual disagreement, along the lines suggested by the semantic variation of the open-question argument.

In my view, an important requirement for defending Coleman's project would be to demonstrate that normativity is content-independent in a more general way: while particular practices may reveal substantive reasons for action, such that can fix the properties of thicker normative reasons, there is a more general way of understanding reasons that does not refer to their content but, instead, corresponds simply to the capacity of agents to appreciate reasons. This capacity resides in our more general capacity for reflective rule-following, whose most general instance is illustrated through the capacity to judge (i.e. to predicate properties of objects). Insofar as the rule of recognition is conceived of as an instance of rule-following, reference to the capacity of agents to appreciate reasons may be employed to explain the normative dimension of that rule. Although this explanation retains some of law's autonomy vis-à-vis other normative domains, it cannot lend support to a strong separation thesis: any notion of normativity based on the reflective capacity of agents will, one way or another, postulate coherence between the reasons for action from the various practical domains. On the caveat that the proposed account may in the end abolish some core intuitions of positivism, I turn next to flesh out its details.

4. How Values Make the Law? A Rationalist Reconstruction of the Agent's Point of View

Despite its ingenuity the idea of content-independence needs, to say the least, to be modified if it is to offer an account of legal reasons. For it to deliver normativity,

³⁰ Coleman, OJLS, pp

³¹ Pages

³² This, of course, precludes him from thinking of a more fundamental level of normativity, such as the one suggested in the paper. This is rather odd: given the centrality of practice for the constitution of legal reasons it is remarkable that Coleman assumes morality to be the source of normativity in a fundamental practice-independent way. It would have seemed far more natural to assume that both legal and moral reasons are practice-dependent with a more thin level of normativity allowing communication between them. This is close to the proposal I advance in section 4.

content-independence ought to be explained as the idea that reasons are practice-dependent but are being held together by the reflective attitude of agents, which transcends any particular type of practice. This is the core of the rationalist reconstruction I shall be putting forward here.

To put it in a nutshell, the rationalist strategy aims to generate an account of the agent's point of view as one comprising normative that discharge the rational determination condition for an account of (legal) reasons.³³ What is rationalist about this strategy is that, in subjecting practices to practice-immanent reflection, it arrives at rational principles that put the entire practice in a normative light. Although such principles are accessible only via some concrete practice, their scope extends beyond the particulars of any one practice: thus it is possible to use these principles with an eye to correction, modification and criticism.³⁴ What makes the rationalist strategy available is a particular conception of normativity which regards human agency as fundamentally reflective. On this view the element of reflection is pivotal in distinguishing mere reflex moves from tokens of intentional behaviour that exemplify the idea of compliance to a rule. More importantly, the idea of reflective rule-following, as the key feature of agency is placed at the most fundamental level of intentionality, i.e. the 'activity' or 'practice' of predication.

The practice of predication corresponds to the activity of propositional synthesis, or the activity of predicating properties of objects. This activity can be described in either of two ways, with the element of normativity featuring in different degrees in each of the cases. In the first case properties impinge upon us in an unreflective, automatic manner: here the element of normativity is less important, for conceptual content derives from the environment, irrespective of any normative structure. This model of predication corresponds to that with which Wittgenstein credits Augustine in the opening lines of the *Philosophical Investigations*, with a view to taking issue with it later.³⁵ The second model, which is the one I wish to abide by, views predication as the rule-guided activity of fact-construction. Facts are not pre-reflective ontological categories, but abstract objects which possess normative structure that is identical with the structure of a (true) proposition. This picture can still accommodate realist concerns about truth and objectivity: 'If a proposition for which we claim truth is indeed true, it is so because it accurately refers to existing objects, or accurately represents actual states of affairs; albeit objects and states of affairs about which we can state facts only under descriptions that depend on our linguistic resources'.³⁶ It is

³³ For the condition of rational explanation see M Greenberg, 'How Facts Make the Law' and part 1, this paper.

³⁴ For a similar understanding of rationalist objectivity, see Burge, 'Frege on Sense and Linguistic Meaning' in *idem, Truth, Thought, Reason: Essays on Frege*, 242-269; also S Schiffer, *The Things We Mean*, esp chs 1 and 2.

³⁵ See PI; also see the very illuminating, D Charles, 'Wittgenstein's Builders and Aristotle's Craftsmen' in D Charles and W Child, *Wittgensteinian Themes* (OUP, 2001).

³⁶ This is how James Bohman describes the recent turn of J Habermas towards a pragmatic realism (see his entry in the Stanford Encyclopaedia of Philosophy, <http://plato.stanford.edu/entries/habermas/>). On this theory, the inescapability of language dictates the pragmatic epistemological character of realism. Specifically, Habermas eschews the attempt to explicate the relationship between proposition and world metaphysically (e.g., as in correspondence theories). Rather, he explicates the meaning of accurate representation pragmatically, in terms of its implications for everyday practice and discourse. Insofar as we take propositional contents as unproblematically true in our daily practical engagement with reality, we act confidently on the basis of well-corroborated beliefs about objects in the world. My

at this basic level of predication that the reflective element of agency makes its first appearance. Owing to its fundamental character for any form of intentional activity, the level of predication imports reflexivity to all other instances of practice, be they of a lower or higher degree of complexity.

The rationalist strategy may satisfy a general *rational determination condition* with respect to any practices, by postulating two levels of analysis: at the more general level of predication, the normativity of thought allows us to depict normative reasons through definite descriptions, that are generated through modest conceptual analysis.³⁷ These descriptions allow to 'secure' conceptual agreement at the deep level of social practices ('depth' derives here from projecting the facts of a social practice in the light of the normativity of the practice of predication). Definite descriptions of the sort enable the construction of deep rationalist facts such as allow us to produce in their light a normative reading of the non-evaluative facts of any social practice. This secures the possibility of substantive disagreement between rival interpretations of the practice without fouling the possibility of understanding and communication. In addition the strategy preserves the valuable intuition of *interpretivist semantics*³⁸ that is possible to have strong claims to objectivity and correctness without taking over from it any conception of value that would be metaphysically too strong.

Mark Greenberg, in his influential 'How Facts Make the Law?' has raised a number of objections against rational or conceptual truths as standards of rational determination.³⁹ In considering the possibility that standards of rational determination consist in rational principles, he asks: 'why is it not the case that such standards are merely conceptual truths?' In rejecting this possibility he suggests that any conceptual truths that would be derived in a practice-immanent manner would simply draw their validity on a factual consensus amongst the users of legal language. Such consensus however would be ill-equipped in satisfying the condition of practice-independence required for rational determination.⁴⁰ This is a sound remark, however it does not defeat every possibility for discovering conceptual (or rational) truths. In particular it does not curtail the possibility of a deeper practice of predication (*practice of judging*), which is more fundamental vis-à-vis all other particular practices. The existence of such a practice allows one to take the required reflective distance from any particular practice, distance that delivers just the right amount of practice-independence for working out rational or conceptual truths of the kind that effects the rational determination of the facts of practice. In other places, Greenberg rejects the idea that there is a more fundamental amongst law practices, one that could determine the truth of the theory/model that rationally justifies legal propositions. While this maybe sound as an argument its scope remains restricted within the realm of law practices and does not touch upon the possibility of a deeper practice of judging. To that extent the possibility (and usefulness) of a more fundamental practice

own views on *pragmatic rationalism* share a lot in common with the Habermasian project, although I'd rather avoid the term *realism*. See G Pavlakos, *Our Knowledge of the Law* (Hart Publishing, 2007).

³⁷ For the technical details of this move see the thriving literature on two-dimensional semantics and the type of conceptual analysis this supports. To mention but the most prominent of the relevant works: F Jackson, *From Metaphysics to Ethics* (OUP 1999); volume *Conceivability and Possibility* (OUP); volume *Two-Dimensional Semantics* (OUP); Entry 'Two-dimensional Semantics' in Le Pore and Smith, *Oxford Handbook in Philosophy of Language*

³⁸ See Stavropoulos, 'Interpretivism' in *Stanford Encyclopaedia of Philosophy*.

³⁹ Greenberg, *ibid.*, 180f. and 187f.

⁴⁰ See for a detailed account of rational determination M Greenberg, *ibid.*; also, part 2, this essay.

of judging remains unscathed. With it, also do the rationalist project and the kind of normative principles this generates.

Interestingly, the rationalist strategy awards primacy to conceptual over metaphysical necessity: metaphysical necessity relies on conceptual content being externally fed into the process of concept-formation. In doing so it postulates a categorical or non-flexible connection between the content of concepts and their referents. The main this may lead to undesirable consequences in the normative context. As already demonstrated, identity statements that fix the content of normative concepts may lead to instances of ‘talking past each other’ along the lines suggested by the modified version of Moore’s open question argument.⁴¹ Instead, in the case of normative concepts, what is really crucial for the construction of normative content are the bridging rational principles that may upgrade non-normative social facts to normative reasons. As this bridging process needs to be justified rationally, appeal to a brute referential function of normative sentences will, on pain of reductionism, be of no avail.

Having put in place the main parameters of the rationalist strategy, I can now flesh out the account of agency and reasons that I propose: As a general guideline to consider, the point of view of agency ought to be constructed in two moves. On one level we have a set of general normative propositions that are a priori true (call them *reasons simpliciter*). Reasons simpliciter are like definite descriptions that specify the *meaning* of normative terms (such as ‘ought’, ‘right’, ‘wrong’, ‘legal’ ‘illegal’ and so on). A priori reasons of the kind suggested, are concluded via modest conceptual analysis of normative concepts by focussing on one only out of the two dimensions of semantic content, the dimension of intension. Typically the intension of a concept maps a possible world to the class of referents that fall under the concept in that world.⁴² What is most crucial with respect with the dimension of intension is that it does not fix the content of a term by pinning it down to its referent in the actual world, but allows for its content to vary across possible worlds. What remains invariable, however, is the general sentence (definite description) that keeps us focussed on the same concept through the various possible worlds.⁴³ Typical examples of normative propositions of the sort suggested here are such sentences as: ‘right (just etc) is whatever we all have good reason to treat as authoritative’; or ‘legal is whatever we have a reason to treat as belonging to practice x’; and so on. Admittedly, reasons simpliciter are meagre and can do little to guide action effectively. That said they might still function as a reliable compass to rationally determine the extension of normative reasons by ‘projecting’ their point on particular contexts/social practices. This brings us to the second level of practical reasons.

The second level of our account of the agent’s point of view consists in a ‘buck-passing account’⁴⁴ of substantive reasons, one that defers the content of reasons to the specifics of some relevant (social) practice. The buck-passing account of reasons is rooted in the view that all value needs, at some level, to be anchored, ontologically

⁴¹ see section 2, this paper.

⁴² See Chalmers, ‘Two-Dimensionalism’ in *The Oxford Handbook of Philosophy of Language*

⁴³ On two-dimensional semantics see...

⁴⁴ I borrow the term from T Scanlon, ‘Wrongness and Reasons: A Re-examination’ in R Shafer-Landau (ed), *Oxford Studies in Metaethics* (OUP, 2007), 5-20.

speaking, to some practice.⁴⁵ Here, in specifying reasons' content, we focus on the second dimension of semantic content, i.e. their extension. Reasons are given, in this context, by the normative facts that correspond to true normative propositions (call these, *reasons in a domain*). Reasons in a domain are a posteriori propositions and amount from the projection of reasons simpliciter onto the particular facts of a practice. Reasons in a domain behave like proper names: they retain the same extension (for a particular configuration of practice) across possible worlds without, however, blocking the possibility of genuine substantive disagreement, as is the case with other practice-independent conceptions of value. Reasons in a domain are worked out against the various particular social, moral and legal, practices which, nevertheless, are constituted in the light of the agent's point of view *qua* reasons simpliciter as representing intentional normative activity. Here it is possible to have intelligible disagreements with other participants in the light of the abstract formulations of reasons simpliciter: consequentialists, libertarians or virtue-ethicists may still engage in meaningful disagreement, provided they remain on this side of the agent's point of view. This comes very close to Jules Coleman's suggestion that it is possible to retain the possibility of substantive disagreement over the content of the rules of a practice.⁴⁶ To the extent that we retain two levels of normativity, it is possible to keep meaning invariable without fully determining content, thus allowing disagreement about the correct configuration of (even) conventional rules. All this would work, of course, only on the caveat that all reasons have a practice-dependent component, for otherwise, if we assume that there existed fully fledged, practice independent *moral* reasons, then disagreement would fall prey to the 'talking past each other objection' as expounded earlier.

A related consequence of the multi-layered model of agency is that no strict separation can be postulated between reasons from different domains. For instance, legal reasons may be related to a particular 'legal' value, such as the value of authority. And yet, to the extent that reasons become relevant from the agent's point of view, no strict separation between 'legal' and other values may be postulated: legal value will make sense only as justified value, and for justification to work, the involvement of reasons from other domains will be required. This means that there is no direct route leading from legal values to the agent's point of view. This route must be demonstrated in a manner that requires backing from all relevant reasons, those that originate in any other relevant domain (morality, ethics ad so on). This, however, should not obliterate the fact that legal reasons may occasionally be assigned equal or even higher weight than other normative (e.g. moral) reasons. In this sense there is no fixed priority between legal and other reasons in a domain (as, perhaps, the vocabulary of natural lawyers and, occasionally, interpretivists might suggest). What bestows on a reason in a domain its particular weight is its interaction with the agent's point of view plus reasons from other domains and ought to be judged ad hoc.

So far the account may evoke the impression that reasons simpliciter are weak in their regulatory capacity and that, in order for them to guide action, they ought to be combined with reasons in a domain. Notwithstanding their thin status reasons simpliciter retain a direct regulatory impact when it comes to screening certain kinds of reasons in a domain. This is particularly the case for reasons simpliciter that give

⁴⁵ This idea has recently been defended by J Raz as the *Social Dependence Thesis*. See Raz, *The Practice of Value*, lecture 1.

⁴⁶ See lecture 7 in PoP; and Dworkin's, unsuccessful in my opinion, criticism in JiR.

expression to core ideas of agency, such as *reflection* and *justification*. An example of such a reason simpliciter is: 'there is a general obligation for justifying actions'. This proposition, although falling short of fleshing out a full reason for action, would still be capable of preventing certain categories of normative propositions from acquiring the status of genuine reasons in a domain (e.g. any sentence imposing an obligation on the grounds that morality leads to the perpetuation of the human species). To that extent reasons simpliciter and reasons in a domain stand in a relation of synergy and mutual contribution to the agent's point of view.