

Inescapability and Authority

Stan Husi

Neo-Kantian attempts to ground normativity in agency and its constitutive standards face the *Agency-Shmagency* objection: Why should one be an agent? Why believe agency is itself a normatively relevant condition and reasons-providing? For agency to lend authority to anything it must already have it, but does it? In response, proponents of agency-based accounts – Korsgaard, Velleman, and Ferrero among others – have appealed to what they consider the unique inescapability of agency. They claim that the norms constitutive of agency are authoritative and reasons-providing because we have no choice but to be agents. This essay contests the normative significance of inescapability and its capacity to explain the authority of agency-constitutive norms, granting for the sake of argument that there are agency-constitutive norms and that agency is inescapable. Agency's authoritative status cannot be established by showing it to be inescapable. Start with Luca Ferrero's description of the view:

[T]he[...] basic claim is that the norms and requirements of practical rationality and morality can be derived from the constitutive features of agency. Hence, a systematic failure to be guided by these requirements amounts to a loss of agency. But there is a sense in which we *cannot but be* agents. It follows that we are necessarily bound by the oughts of rationality and morality, we are bound by them *sans phrase*.ⁱ

In *Agency-Shmagency* David Enoch objects:ⁱⁱ Suppose that as a conceptual matter, abiding by norm-complex N turns out to be constitutive of agency. And, suppose further, this is so because the concept of *agency* has been set up to categorize systems that abide by

N. Now if you are abiding by N you are an agent and if not then you are not. But how could that piece of information provide you with any guidance as to whether to abide by N? Why is it relevant for the normative and meta-normative status on N? From the deliberative standpoint, what the conceptual finding about *agency* furnishes is but an alternative way of putting the deliberative question: whether you should strive to be an agent, which is but another way of asking whether to be a system that abides by norm-complex N. Enoch puts the charge beautifully, illustrating the problem in connection with the constitutive account of Christine Korsgaard's:

[C]onsider Korsgaard's hope of grounding a reply to the skeptic in what is constitutive of action. We are to imagine, then, someone who remains indifferent when we tell him that his actions are immoral or irrational. He then reads Korsgaard and is convinced that self-constitution is a constitutive aim of action, so that you cannot even count as an agent and your bodily movements cannot even count as actions unless you aim at self-constitution of the kind Korsgaard has in mind. ... Do we have any reason to believe that now 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 nonagent who is very similar to agents but who lacks the aim (constitutive of agency but not of shmagency) of self-constitution. I am perfectly happy performing shmactions – nonaction events that are very similar to actions but that lack the aim (constitutive of actions but not of shmactions) of self-constitution. ... So what is it to me how you classify my project?"ⁱⁱⁱ

In response, proponents of agency-based accounts point toward the inescapability of agency. "Human beings are condemned to choice and action", writes Korsgaard, and continues:

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 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 away, ..., [a]nd 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. ... [A]ction is necessary.^{iv}

Velleman, reasoning similarly, takes this one step further:

There may be, in some sense, an open question whether to be an agent, whether to get into or stay in the agency game. But of course someone who is not already in the game is in no position to entertain that question, because entertaining it entails thinking about what to do, which entails trying to bring his behavior under descriptions that would embody knowledge of what he was doing. Anyone who asks himself whether to get into the agency game is already in the game; and anyone who asks himself whether to stay in the game cannot answer in the negative without staying in it at least that far.^v

Action and agency are supposed to be inescapable in the sense that we cannot get out from within. *Thrown into the role of agents* we are *condemned* to remain agents. Agency is not inescapable as a metaphysical condition, but rather agency is inescapable for agents, where no agential exit strategy is in sight. What does this kind of inescapability entail? David Velleman answers:

The view contends that such practical thoughts can be objectively valid without having indicative proxies that are made true by swatches of the world: practical thoughts can be objectively valid by being inescapable, in the sense that any agent must accept them.^{vi}

The key question we need to ask is what we are entitled to conclude about the meta-normative status of agency-constitutive norms based on the assumption that the sort of agency they enable is inescapable. Recall the present dialectical situation. We begin with the question whether norms constitutive of agency are authoritative and

objectively reason-providing, and after being told that their authoritative standing traces back to agency, we are led to the question whether agency is authoritative and objectively reason-providing in the first place. The operative principle is that norms can acquire authoritative standing due their role for agency only in case agency has the corresponding authoritative standing in the first place. And thus we ask: what is the meta-normative status of agency? In response to our question we are told that agency is inescapable. The claim is that agency, and derivatively its constitutive norms, are authoritative in virtue of being inescapable.

Language seems to be coming to the claim's aid, making the transition from inescapability to authority appear smoother than it actually is, owing to the fact that the meta-normative status of authority seems easily translatable into a kind of necessity too. After all, the normative question of what *ought I to do?* seems similar to the question of *what must I do?* This is even more salient when we use instead the all-purpose modality of *having-to-do*. Is not what *I ought to do* that which *I have to do*? And, reversely, if you have no choice but doing something, with no available alternatives in sight, then you *have to do it*, right? But then, is it not also the case that you *ought to do it*? To my ear, this already rings false, causing some uneasiness in trusting language as a guide. The suspicion is that the modifier *have-to-do* is susceptible to normative and non-normative interpretations, and that moving from one to the other is a form of equivocation. We need to watch out for seductive yet illicit linguistic maneuvers.

But there's another intuitive route to the claim. Aren't normative questions practical questions of what to do? Isn't normative reasoning a process whereby we eliminate available options for choice until we have narrowed it down to a single choice which we thereby identify as the one we ought to choose? If so, then, in case there is only one choice to begin with – the inescapable choice – should not that choice also be the one we ought to do? If I

wonder whether I should go through that door, and then learn it is the only door to go through, the question of what door to go through has been settled, hasn't it? It is tempting, then, to regard the step from necessity to authority an innocent one to take.

Yet it is anything but. To see why, start with a toy example, rolling a dice. Suppose there is the feature of the good or right number. You don't know which, if any, number has that feature. Now you roll the dice, and get a three. Have you rolled the good or right number? You don't know, but upon inspection find all sides of the dice are threes. You could not have but rolled a three. Does that answer your question? The answer is no. It tells you which number you had to roll, but why suppose that any number had the feature of being the good or right number in the first place? Now if you knew that, first, there was indeed a number that was the good or right number, and that second, it must be possible for you to roll that number, then you would be entitled to conclude you rolled the good or right number. But you don't know whether there was a number that was the good or right number, and you cannot infer this on the basis of what was inevitable.

Compare this with morality. It is intuitive to suppose that occasionally we encounter a range of morally neutral options. Driving home, I might take the short route or I might take the scenic route, and there's nothing more to it. There is no moral presumption in favor of either, let alone an obligatory presumption. Morality is simply silent on my choice of which route to take. Now this won't change if, for some reason or other, my choice situation is narrowed down to one option, due to road maintenance preventing me from taking the short route, say. If there was no moral presumption in favor of either option before, there will be no moral presumption for the single option now rendered inevitable. It is true that I have to take the short route. But it is not true that I am under any obligation to take the short route. Now we need to hear this right, since saying

the latter usually involves all sorts of conventional implicatures, suggesting there must be other options I may permissibly adopt. But those implicatures are easily cancelable. In our example, the notion of moral obligation is not contrastively used, but simply presumed inapplicable. The important point is that the notion of obligation does not suddenly interject itself once we limit the option-set to a single choice.

Turn to norms more generally. Suppose there is the question of whether any norms are objectively authoritative. You then learn that there is a norm you cannot but implement. Have you thereby learned that this norm is objectively authoritative? Once more, the answer is negative. You would if you were entitled to suppose that, first, there indeed was a norm that was objectively authoritative, and that, second, it must be possible for you to implement that norm. But you don't know whether there is a norm that is objectively authoritative, and again you cannot infer this on the basis of what is inevitable.

There are various principles in connection with fairness and responsibility, which may seem to apply here and to support the notion that the inevitable choice must be the right or good choice. The principle '*ought implies can*' comes to mind. Now there are many complications with that principle, and in particular, there are complications concerning the relationship between evaluations we wish to make of choices and evaluations we wish to make of agents performing those choices, and the relevant principles seem most pertinent for evaluations of agents performing the choices rather than of the choices themselves. But this is a hugely complicated and contested matter, and so we better stay out of it here; which we can comfortably do anyway since even without drawing the agent-choice distinction, the relevant principles cannot be recruited to support the contested inference from the inevitable to the obligatory.

Consider '*ought implies can*.' This principle does not have the desired implications of showing the inevitable to be the obligatory. All the principle says is that if there is an option someone ought to choose then that option must be one he can choose. And, under the assumption that there *is* an option he ought to choose, and further that there only is one option he can choose, this must indeed be the option he ought to choose. But the principle is silent on whether there always is, or even ever is, an option we ought to choose. The principle kicks in only after an option has been identified as the one he ought to choose and the principle cannot establish that there is such an option he ought to choose in the first place. The principle says something about all the oughts there are but doesn't say anything about whether there are any oughts. The principle '*ought implies can*' does not even show that there always must be one permissible choice. It shows something significantly weaker, namely that not all of the available options can be impermissible. Permissible and impermissible are logically related to each other not as contradictories, where everything is either one or the other and never both, but as contraries, where nothing is both, but where some things might be neither. '*Ought implies can*' has implications for what is permissible and what is impermissible once permissible and impermissible are in play. It cannot introduce them into play itself.

The previous examples proceeded on the basis of inevitable yet normatively neutral choice-situations. Can we go one step further? I believe we can, and conceive of inevitable and normatively deficient choice-situations. Original sin comes to mind, possibly a morally suspicious concept, but surely not an incoherent one in its presumption that we all are inevitable sinners who cannot help but sin. The inevitability of sin does not affect its normative valence, nor does it provide any absolution. Catholics are not alone in this assessment. Especially pessimistic Calvinists might go further and consider human agency inherently corrupt and evil, a verdict they

surely would not be prepared to revoke should agency be proven inescapable. More sanguine minded Protestants might conclude that we cannot blame and hold responsible those who cannot help but sin, but even they would not deny that what these people are doing is sinning nonetheless. From bad turn to worse, and consider Satan. Suppose it was him who engineered human agency, and, taking no chances in making sure that humans always sin, he resolved to build a drive for sinfulness right into the very design of agency, making sinfulness the constitutive aim of action and agency; without any trace of normative worth and merit.

Return from theology to agency. The kind of necessity that underwrites constitution, whatever it is, is not the same that underwrites normative authority. The question is why we *should* be agents, what normative significance agency has, and the answer that we *must* be agents is neither here nor there as that question is concerned. It is not an answer of the right form to speak to that question. The space of modality *should* and *authority* are part of is not the same space of modality *must* and *inescapability* are part of, to which the fallacious nature of the inference *I must do X, X is inescapable* hence *I should do X, X is authoritative* bears immediate witness. Alternatively put, *should* and *authority* essentially are normatively commendatory whereas *must* and *inescapability* are normatively neutral, and no normative distinction may be inferred on the basis of what can and cannot happen, including what can and cannot be done by us.

Constitution belongs more to the purview of the engineer who designs complex norm-consuming systems than to that of the ethicist and practical philosopher. Suppose acceptance of norm N turns out to be constitutive for doing X. In that case you cannot do X while disrespecting N. Should you also care about doing X, then you would only achieve what you care about so long as you implement N (assuming that you did not have reasons to care). *You gotta do what you gotta do*. Yet nothing more seems to follow. In

particular, nothing of the kind follows that you normatively must comply with N or that you have any reasons to do so. The impossibility of *doing-X-while-disregarding-N* could reflect some basic constraints in design-space akin to that one cannot build stable bridges while disrespecting the laws of gravity. Moreover, the inescapability of doing X itself would not change the normative situation either, but solely place yet another constraint on your practical options. Thus, even if you absolutely had to do X – a choice you simply could not evade – and further that doing X required complying with N, this hardly would entail any reasons to comply with N on your part. One constraint would lead to another, but the fact remains that being constrained is not the same as having reasons. You merely would find yourself trapped in a tight corner. Might does not make right, however, as normative force evidently differs from brute force. Demands do not gain authoritative standing solely in virtue of their possession of absolute powers over us. What is constitutive of agency and what is inescapable does not explain, ground, or account for what is authoritative and objectively reason-providing.

ⁱ Luca Ferrero [2009], *Constitutivism and the Inescapability of Agency*, in Russ Shafer-Landau (ed.) *Oxford Studies in Metaethics* 4, pp. 303-333, Oxford: Oxford University Press, p.304.

ⁱⁱ David Enoch, David [2006], *Agency, Shmagency: Why Normativity Won't Come from What is Constitutive of Agency*, *Philosophical Review* 115, 169-198.

ⁱⁱⁱ Enoch, op.cit. pp.178-9.

^{iv} Christine Korsgaard [2009], *Self-Constitution, Agency, Identity and Integrity*, New York: Oxford University Press, p.1.

^v J. David Velleman [2004], *Replies to Discussion on The Possibility of Practical Reason*, *Philosophical Studies* 121:277-298, pp. 290-1.

^{vi} J. David Velleman [2009], *How We Get Along*, Cambridge, UK: Cambridge University Press, p.116.