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Ethical Impartiality, an Expression of the Spirit of Critical Thinking?

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Title: Ethical Impartiality, an Expression of the Spirit of Critical Thinking?
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Ethical expectations constrain and so limit the beliefs or actions of agents. When there is such an expectation, someone comes to count on or rely on another to do or believe something; someone anticipates and plans (perhaps loosely) around the agent believing or acting in some way. The agent is entrusted with an expanse of openness or social space within which to act or to form beliefs (agency space) and is made responsible to act or believe in a way respecting the spirit if not also the letter of the constraints understood within the expectations.

Clearly, these are not merely predictive expectations, though they are that. Rather, they involve a call on the agent to restrict belief or behavior appropriately relative to favoring certain possibilities rather than others. And this restriction is to be an expression of a defensible choice. Still that does not quite capture the point. A response to force or out of blind conformity to social rules or even out of habit might in some ways involve and express choice that is defensible. And expectations of belief and action associated with (compelling) force, (blind) following of customary practice, or habit are not in question here. When someone counts on or relies on another as a matter of ethical expectation the responsibility involved requires that the agent will act or believe in ways informed by critical reasoning. Responses to such expectations are presumed to be within the agent's control and to have been chosen in a way that is subject to the influence of, if not actually influenced by, critical thought which invokes acceptable reasons.¹

Philosophers have adopted the term, "normativity," to focus on the reasoned and impelling character of just such expectations. And by extension, the dimension of agency which ethics and ethical reasoning introduce into our lives is the normative. In line with these practices, we speak of normative expectations as opposed to those resting on power or force, and as opposed to those based on causal knowledge, or even those based on knowledge of the habits of an agent.

This discussion comprises an exploration of some aspects of normativity. In particular, after some introduction to the relationships between several dimensions of normativity, I wish to concentrate on the possible basis of an agent's claim to legitimacy for an act or belief. The discussion proceeds first by looking to conditions of legitimacy of assertions within the frame of critical thought. There, it will seek a set of characteristics or virtues of the critical thinker who, in general, might claim legitimacy for beliefs or decisions and the actions expressing them. Second, I wish to supplement this picture by considering ethical thinking as an expression of critical thought. In this way I shall try to articulate general constraints on the thought of ethical agents who are able to claim normative legitimacy for their decisions and acts. Thus I shall seek to argue that normative legitimacy in ethics is partially ensured by, though not reducible to, the normativity characteristic of critical thinking. Having gone that far, I will be in a position to say something about the role of reason in ethics and about the need to supplement reason with feeling or attitude, as well as our personal commitments to undertakings and entanglements with others. In effect then I will be suggesting sources of the salience of action that go beyond

concerns for legitimacy or impartiality of action. The final section returns to the question of the role of critical reasoning in founding the defensibility of reasons in ethics. This portion of my discussion will suggest how we might understand and respond to the request for founding the constraints generating the ethical defensibility of the salience of various options of action within the features of reality or within the features of the real in ethical agency space.

Section I. The Three Dimensions of Normativity

Normativity understood as I have suggested is a truly complex matter comprising at least three dimensions tightly interrelated in an intricate personal and social dynamic. The first is that of *legitimacy: normative expectations include a call for agents to at least be able to articulate and provide for their beliefs, choices or actions, reasons that are defensible, both to the agent and to others*. This is ambiguous of course. We need to distinguish between an abstract and a personal notion of legitimacy, or, respectively between an evidentiary and a virtue oriented notion of legitimacy. Abstract legitimacy is the fact of there being reasons supporting an act or belief or choice that are defensible either to all at every moment, or even to all in some epistemically ideal circumstances, and thus trivially the fact of its being possible in the ideal (of there being an opportunity just in the presence of such reasons), for someone (not necessarily the agent) to find and give such reasons.^{2,3} In this sense, calls for the abolition of slavery were always legitimate even though as a matter of cultural limitations upon imagination, ill will bred of avarice, meanness, and social practice among other things, in some cultures, at various times, defensible reasons for the abolition of slavery have not been within the reach of some agents. In this way, such reasons could provide evidentiary support for a claim of what is the best course of action, even though such reasons were not available in any significant sense to the agent.

Notice that we would do well to not expect agents to act only with abstract legitimacy. Since it is not within the control of anyone at any time to grasp reasons making an act abstractly legitimate (reasons that are defensible either to all at every moment, or to all in some epistemically ideal circumstances), then if we set expectations within the realm of the abstractly legitimate we would counsel reaching for the epistemic stars. And this then would be tantamount to undermining responsibility in which we ask of agents the best that they might rise to and express in their acts. The nurturing of responsibility does require that we call for the agent to have available in some significant way (and then to act on) reasons the agent could defend. Nurturing responsibility demands that we call for acts that are legitimate in a way personal to, or reflecting the virtues of, the agent who restricts action to reasons he or she might grasp and defend when called upon to do so. The nurture of responsibility calls for a practice of expectations consonant with real accountability for acting legitimately. But note that this personal, or virtue reading of legitimacy does not even call for the agent to actually possess or to appropriately think through every act so that it expresses reflectively held, defensible reasons.

If we grant my point concerning responsibility, we would do well not to suit our notion of legitimacy in action to what the agent has thought through and is ready to support with even less than ideally defensible reasons for doing. In the first place, sometimes agents have already thought carefully about previous cases which appear analogous to some case now calling for choice and action. No more reflection might be appropriate or called for since it could only lead to the same decision or to indecision growing out of fear of having missed something important. Further, there might not be time to reflect or the circumstances might be so strange, so taxing, or

so emotionally overwhelming that reflection could not be regarded as appropriate. Or again the circumstances, including the ethical conflicts at hand, might be so complex as to not lend themselves easily to a simple statement of defensible reasons for acting one way or another—perhaps a complex narrative is the only possibility here. Fourth, the agent might well have been alert to appropriate reasons and possible problems bearing on the various open choices and actions, but not have been aware of this. The agent's act would have been influenced by reasons but not ones consciously considered in reflection prior to the act. And finally, an agent's act might not have been influenced by particular defensible reasons that would support some act or choice or belief, reasons held and at work pre-consciously, but rather the agent might have acted in such a way that this person could (perhaps with some assistance as in a context of accountability) identify and provide such reasons, and this possibility was itself what made the act legitimate. Sometimes when we act with "our heart in the right place" we actually do get it right. And ideally, the critically or ethically virtuous agent can act in a way that is shown to be personally legitimate only later even though it was not supported, even pre-consciously, by reasons at the time. The critically and ethically virtuous agent should be capable of carrying on in a critical or ethical way, even beyond what defensible reasons this person has already in some repertoire capable of guiding action. Sometimes the responsible person will do what is not only abstractly legitimate but is also personally legitimate and yet this agent is just responding to discriminations not yet articulated as reasons and operating either consciously or pre-consciously. Sometimes the responsible agent just knows what to do, as we say, and yet has no way to explain this or to express why what was done was the right thing to do. Sometimes holding someone to account is the occasion for that agent to articulate for the first time reasons that were not just out of conscious sight in action, but were actually not formed and operating as such. Is this so surprising if our acts and their reasons express the connections in our brain and these connections might operate without our having articulated the reasons associated with that operation? (I do not mean to seem mysterious here. One explanation of this possibility can be found in Alicia Juarrero's dynamic complexity theory of the physical processes of having intentions and having reasons. See Juarrero, 2002.) This is only what responsibility requires of us, namely that we should not only act for legitimate reasons, but that we should sort things through to form these reasons ourselves—whether this means making others' reasons our own, or thinking on our own against the grain, and until we have done so we do not actually personally possess reasons to act (believe) as responsible agents (or thinkers)—though we might still act responsibly with and for personally defensible reasons.

Reflection and deliberation, as many have tended to speak of them, are treated as something we do consciously and while looking over our own shoulder, if not under the careful scrutiny of others interested in the outcome. (See, for example Bergson, 1910.) But still, it seems that to some extent, our choices and undertakings are under the influence of careful, supportable discriminations, perhaps made as part of the experiential discriminations we make—so that we see or hear or more generally experience or are aware as if in terms of the differences that reasons might single out and express, and thus our choices and undertakings are informed by a (possibly vast) knowledge of relevant and defensible reasons, even though we are not aware of these influences, even though we might have a hard time and need assistance in sorting them through and calling them to consciousness, and even though in some cases there is nothing that we have articulated for ourselves (indeed, being held to account might be the occasion of first articulating or making for ourselves or others such a reason) and that might be operating as a particular reason or the stuff of a particular reason guiding our action. (For hints, implications

and alternative developments of such a possibility, see Raz, 2000 and Hookway 2000 on passivity and spontaneity in ethical experience as found in the Dancy collection, as well as Wittgenstein 1965 on carrying on, and McDowell 1996 on passivity and conceptual spontaneity united in the given of experience—though not articulated as such, Bradley 1994 on truth and coherence and on our knowledge of immediate experience, Bergson 1991.)

So the critical thinker or the ethically virtuous agent might well act for reasons but not reflectively (and not even with the ability to alone or without the assistance of discussion and criticism) retrieve or even form just those reasons in the terms in which his or her undertakings would be defensible by reasons for an action. Still, if an agent simply could not subject a prospective undertaking to review with an eye to articulating and assessing the prospect in terms of relevant and defensible reasons, not even in psychologically and socially favorable circumstances (say the circumstances of an open and nonthreatening or supportive process of being held to account), our practice would be to withhold normative expectations from this agent. As in the law we might withhold trial and the other retrospective expressions of normative expectation if there is evidence the defendant could not discriminate between right and wrong or was in such circumstances as to preclude responding to such a discrimination no matter the effort expended, so in morality, if an agent is known to be not able to resist impulses most could withstand or is compelled to act in some way (even after a choice not to do so), or is sure to have some other exculpating excuse, we would not express a normative expectation by holding that person to account. We want our practice of expectations to allow for an agent to be a virtuous thinker, either critical or ethical, and for this to be a guiding force in action even though it does not take the form of conscious or reflective guidance. And this is no more than what we would call for if we suited the demand of legitimacy to the possibilities of responsibility.

Perhaps because of our commitment to the demands implicit in the practice of normativity or more basically to the practice of critical thinking, as a rule we would either consciously reflect on our choices and undertakings and the reasons for and against them, or pre-consciously advert to such considerations previously developed or learned. But the expectations we operate under include the fact of neither of these, only that either or both are open to us. Thus an expectation of *personal legitimacy* of choice or action, or the expectation and prospect of the agent being able to recognize and respond to defensible reasons seems to be one central feature of our practice of normativity.

Although I cannot engage in a real discussion of these points here, still two cautions are necessary in light of what I have already said about legitimacy. The first is that we must not go forward with the impression that legitimacy is simply a matter of bringing into agreement our choices and undertakings *with some single well-defined and easily applied code*. There is no such code, of course. And if there were it would be so rich that we would find ourselves, as we do virtually always, conflicted between two or more options each of which seems to have a claim to legitimacy for us in the present circumstances and neither of which has a clear supremacy over the other(s). Legitimacy is, then, almost always a matter of which of the competing courses of action we might provide defensible reasons for being the preferable or the permitted one, in light of all that is open to us; a matter of which option has the most or the best reasons in its favor in the face of the conflict.

Secondly, legitimacy is never simply a matter of *bringing our choices and undertakings into agreement* with some well-defined and easily applied code(s). Legitimacy is a feature of agency in which the agent has reviewed or could review the circumstances present, recognize(d)

normative saliences within these circumstances, articulate(d) these in a way that engages pre-existing normative thought and its reasons for the sorts of action open now, and so engages what is at least apparently salient in terms of commitments, desires and expectations imposed by self and others present in the circumstances (that is, engages the contextually emergent reasons for acting one way or another), and then forms a judgment of what is defensible or of what is best to do.⁴

Legitimacy is, then, not algorithmic or calculative, but rather synthetic or constructive. Whether we are speaking of the legitimacy of belief, decision, or action under the auspices of critical thought, or more specifically of the rightness or best practice of choice and action under the guidance of ethics, legitimacy is a matter of performing well in interpreting and then putting together the meaning and significance of our circumstances and judging what belief, or action (usually from among several conflicting options) is called for in light of both those circumstances and the expectations upon us. Legitimacy is then expressed in all those various aspects in virtue of which we have performed well in acting on defensible reasons, or, expressed in all those features in virtue of which had we been reflective about our undertaking, we would have performed well, namely, the defensibility of the reasons we could have adverted to and the skill or adeptness we could have expressed as we responded to our circumstances in the face of the expectations upon us.⁵ To the extent that those reasons would be marked as defensible or are defensible, and to the extent that we are adroit in our work of responding, our conduct would be normatively (personally) legitimate as called for by the expectations of responsible agency.⁶

A second dimension of normativity is that of the *authority* of the agent, and of those with whom the agent might knowingly interact or otherwise become entangled. And while I must be more brief here than with respect to legitimacy, I need to make a few remarks. *Authority might be said to amount to being in a position to initiate and articulate determinations of what is legitimate and to make demands upon self and others accordingly.* Thus normative authority is inseparable from normative authoritativeness. But what puts us in a position to identify the legitimate and demand this of self and others? Analyses of authority in terms of expertise are well known and pertinent here. But they are not the only dimension of authority I am concerned with. Indeed, we can say that the practice of normativity credits as authoritative those who are able to grasp the legitimate and to use it as a guide to action. But appearances deceive sometimes and not everyone who might seem to meet that expectation really does, even though (perhaps wrongly then) they are accorded authority. And there are false negatives here as well as false positives. Some who are accorded authority lack it for being out of touch with the legitimate. And some who are in touch with the legitimate are not accorded authority even though they should be. This is the case of an ethical reformer before the social circumstances are prepared for reform. Do we say that a reformer has no authority? Or do we say that the agent has authority but was not accorded such? Surely the latter.

But then does being accorded authority form no part of having authority? The question is in part analogous to whether we should say that an agent's act is legitimate if that agent does not now possess consciously or even preconsciously defensible reasons for the act? Agency in the real world must be allowed to move forward only in the face of the ability to come up with appropriate reasons. So too authority. And yet in both cases we must determine whether the claimant is one we could endorse. We might have to hold the agent to account to test for that person's ability to support an act with good reasons. Just because having authority is being in a position to demand action or noninterference from self or others by virtue of having good reasons to act, we might have to hold a claimant of authority to account and test for whether this

person really is in touch with the legitimate. Thus, just as personal (as opposed to abstract) legitimacy requires of the agent the ability to provide good reasons for the act, so also personal (as opposed to abstract) authority requires of the holder the ability to show a grasp of, or the possession of qualifications of one who can grasp, the legitimate. And since these things are not worn on the agent's sleeve, we might have to check whether that person is worthy of our endorsement as acting legitimately or as having ethical or critical authority. And yet with good reason our practice of normativity does not proceed by holding every agent to account before every act any more than it calls for us to test every prospective or accomplished agent for appropriate ethical or critical authority. We live with ourselves and others not on the basis of our having legitimacy and authority, but on the basis of our normally being accorded such, and in the recognition that there is provision for checking on that *if there is some reason to do so*. Defeasibly, and normally in an open, free, and stable society, agents are accorded authority and thus also afforded a grasp of the legitimate and then access to good reasons, in place of our testing those persons. Thus in practice, there is another element of possessing authority (and legitimacy) among some agents at least, namely being accorded a presumption of authority (or legitimacy) by self or others. What does this amount to? Setting aside the search for the test of someone's personal grasp and use of the legitimate, or assuming that test met or else claimed to be met, what is it to accord authority (rightly or wrongly, then) to self or others? That is the question I want to get to here, however briefly.⁷ This aspect of the social reality of *authority* can be approached through some work on the nature of authority itself. For example, we might turn quickly to Christine Korsgaard and Peter Railton:

Reasons are relational because reason is a normative notion: to say that R is a reason for A is to say that one should do A because of R; and this requires two, a legislator to lay it down and a citizen to obey. And the relation between them is not just causal because the citizen can disobey: there must be a possibility of irrationality—or wrongdoing. Since it is a relation in which one gives a law to another, it takes two to make a reason (Korsgaard 1996. 137-138).

And

Reflection has the power to compel obedience and to punish us for disobedience. It in turn is bound to govern us by laws that are good. Together these facts yield the conclusion that the relation of the thinking self to the acting self is the relation of legitimate authority. That is to say, the necessity of acting in the light of reflection makes us authorities over ourselves. And insofar as we have authority over ourselves, we can make laws for ourselves, and those laws will be normative. So Kant's view is also true. Autonomy is the source of obligation (Korsgaard 1996. 165).

At the bottom of morality's normative authority, then, Kant speaks not of an analytic demand of consistency nor a willful exercise of our capacity to govern ourselves by rules, *but of an experienced synthetic demand and a free acknowledgement*, the subjective expression of which is a feeling of a more aesthetic character, akin to the demand upon us that the appreciation of the sublime in nature involves: ... (Railton 2000. 23. My emphasis).

And

Our moral understanding, like our aesthetic understanding, will be communicable to others in the form of a recommendation, and it will afford a compelling ground for life together that conflicting individual interests do not. The compulsion here is not at bottom that of will, or law, or rule, or consistency. Instead, it is a kind of liking *that is free but not simply chosen, and that is regulative for action*. It is, then, *our* attitude when we are "mentally attuned" by reason, and no mere submission—even though we precisely recognize that it is not simply up to us what we make of it. This is the experience of normative authority (Railton 2000. 27-28. My emphasis).

The tradition represented here is obviously one emanating from Kant, nevertheless, it seems generally representative.⁸ On this view, the person with authority is, by virtue of having access to the legitimate, in a position to make demands in the name of the legitimate. That person is a legislator over self and others (at least defeasibly so). Self and others are in a position of being subject to the demands of reason as identified and articulated by the authority. That is the first point—to accord authority is to subject oneself to the (presumed) legitimacy of the demands of another just because of the legitimacy of those demands. Those who have this position of authority have it by virtue of self or others having taken up a special attitude toward that person or a special regard of the authority. This grant is, as Railton suggests, free in that it is not something which reason will produce in us. The grant is a matter of commitment to treat the authority as being in possession of the legitimate, based on less than direct evidence of the powers of the authority to grasp the legitimate. This is especially clear in those cases where the authority is identified, presumptively, without any test or without being held to account in the matter of that authority's judgment of the legitimate. In that sort of case, the authority might not have at the ready an account of the good reasons for one or another option of action. After all, the authority's grasp of the legitimate must be that of someone who has access to personal legitimacy, not abstract legitimacy. But the same point is clear even in those cases where the authority stands up to appropriate testing. After all, testing for authority would never go so far as to establish the person's grasp of the legitimate in the case at hand by independently identifying the legitimate and then seeing if the authority got it right. The point of testing the authority is to test that person's powers of judgment or to check for reason to have faith in those powers, not to test the accuracy of a particular judgment. (If it were the latter then we would need no authority in those cases where we need to test for authority. We would just proceed to identify the legitimate directly and that would end the matter for us.)

Thus in granting authority we move beyond strict evidence for someone having a grasp of the legitimate. The grant is, as Railton puts it, a free acknowledgement or liking, or perhaps better *a free acceptance of the authority as an interpreter of the legitimate*. As such, granting authority is granting permission to identify the legitimate and accordingly make demands on self and others—at least demands of noninterference with the authority acting as is legitimate, or demands of noninterference with another doing so, as appropriate. Thus self and others have given to the authority a grant of recognition as someone with the standing that comes from being in touch with the legitimate, and, self and others stand ready not to interfere with the undertaking of the legitimate or at least stand ready to give an accounting of such interference seeking to show why such interference was justified or excused. And then, my being under an expectation attributable to there being a reason for acting is, other things being equal, correlative with my

being an authority with respect to acting that way, an authority over others, as they act in ways that might interfere with my beliefs or undertakings. And presumably the same is true of all others who have reasons to act (or believe) and thus have authority with respect to still others and to myself.

Once again then, the social reality of authority in societies which are open, free, and stable shows the operation of a defeasible presumption of authority generated on the part of every agent. This seems necessary to agents having the responsibility to identify and act on the demands of the legitimate, and seems necessary to the consequence of that responsibility, namely that agents be enabled and then empowered to sort things through on their own as ethical and critical agents. This is the agential expression of the constructive dimension of critical thinking. Though this presumption can be withdrawn for good reasons (nonage, a hearing of incompetence, a record of felonious behavior, a record of moral untrustworthiness, contextual signs of irresponsibility), still the efficient maintenance of the social reality, and the regard, or trust needed for the social capital underlying the practice of normativity seem to call for this presumption as a rule. Thus normativity does not just include authority; it includes the presumption of authority in a mutual and more or less pervasive grant of a kind of *basic normative personal authority*.^{9,10}

Authority then goes beyond legitimacy, though legitimacy is necessary to authority and so authority implies legitimacy. (Authority does not constitute legitimacy on all theories, but as Korsgaard suggests, it might do so on some.) And, if legitimacy of the reasons we have or if having legitimacy within our grasp were not to put us in the position of having some degree of (abstract and, in a well ordered society, also personal) authority as agents and belief holders, then we would question the status of that legitimacy. Indeed the recognition of being in touch with legitimacy would most normally be through the granting of authority. Thus even though neither authority nor legitimacy constitutes the other, they seem to be co-implicated with each other. A story of legitimacy in which authority had no part would be seriously weakened by that, and conversely. One consequence of this point is the following. Accounts of normativity might concentrate upon the abstract legitimacy of reasons and understand that further in terms of evidentiary relations between reasons and the conclusion of the justifiedness of belief or action. The points just made about personal authority (and personal legitimacy) do not impugn these investigations, but they do urge that evidentiary investigations of normativity are narrowly focused and incomplete in themselves.¹¹ Indeed, the point is that normativity as a social reality seems to be a complex of features of a particular form of agency among others, not a matter of justificatory or other epistemic relations supporting a belief or a claim of what action is justified. And this suggests one other dimension of normativity, namely that of salience.

*Salience of the sort I am speaking of now amounts to the felt importance of some line of action, or state or feature of things or persons.*¹² To have salience, the opportunity to perform the act would stand out as significant, or the thing or person would stand out as significant in virtue of its state or features. Salience will be positive or negative, will have a positive or negative valence, and would then be associated respectively with some motivation or impulse to perform or avoid performing the salient act, some motivation or impulse to realize or prevent the salient state, or to support or oppose the salient individual. The dynamics of salience in critical and ethical agency are made complex by the number of different acts that might be salient at once, the number of different ways in which or reasons for which they might be salient, and the number of different sorts of conflicts (for example, between different sorts of ethical concerns, and between different sorts and sets of norms both instrumental and substantive) that might arise.

(See, for example, Gibbard 1990. Chaps. 10, 11, 13.) These complexities are beyond the scope of this discussion.¹³ Still the relations between salience, legitimacy and authority deserve some brief comment.

Normativity is intended as a practice for those who have undertaken to guide their actions and beliefs among other agents who are capable of doing the same, at least in part by good or defensible reasons, as opposed to force through physical influence, guile and manipulation, or deception. As such, normativity is a practice aimed at involving agents in the identification of and advertent to reasons for acting. It is not addressed to those who would side-step or subvert the guidance of reason. Thus normativity presupposes a commitment to acting on good reasons. And as we engage in the practice, if we find that someone seems not to satisfy this presupposition, we seek to learn why and accordingly either lower our expectations and try to enable the agent if that agent is incompetent, or, seek to protect the system of reasons and those committed to it from any harm from the agent who is competent but lacks the commitment and so does not express it.¹⁴ Thus, normally, the presupposition of a commitment to act on good reasons will be expressed by those incorporated into the practice of normativity. For such agents legitimacy will have primary salience, being a pervasive and life characterizing influence no matter how well these agents live by it. Such agents will seek not only to live by advertent to good reasons, they will also seek to enable themselves to do so and will seek social circumstances in which living this way with others is favored. Since one large aspect of such circumstances is the social capital gained through the exchange of grants of authority among those committed to and presumed to have a grasp on the legitimate, these agents will stand ready to grant authority to others striving to live by good reasons and will seek to have these others grant them authority in the construction, maintenance, and sustaining of a reciprocity constituting a commons of living according to good reasons. Such agents will seek to make of their various personal lives a social whole of which they are, individually, both a contributing and a constrained member. Thus, within the practice of normativity, the presupposition of a commitment to a life according to good reasons will link both legitimacy and authority in general, and in particular acts, with salience, so that personal legitimacy and authority of an act will bring with them a personal salience shared by the agent and those with whom the agent makes a commons of good reasons. Once again there is much here that needs further attention. However, our current purposes will be served if I say no more than I have of the connection of legitimacy and authority to salience.

The larger concern of this discussion lies in the other direction—the connection of salience to legitimacy and authority. Under what conditions will the personal felt importance of an act (or belief) to an agent be sufficient for the legitimacy of that act (or belief)? And under what circumstances might salience of belief or act lead to authority for the agent of that belief or act? Of this second question, that of salience and authority I can say no more directly, at this point. The remainder of this discussion will be devoted to the issue of when or under what conditions might salience of a belief or act ensure its legitimacy. Many have explored this question.¹⁵ And so there are many points of engagement for the issue. Many agree that since our acts or beliefs hold some, or sole, or the highest salience for us personally, they have some claim to legitimacy. (For example, some egoists would say this, and again see Korsgaard, for example.) And so there is no lack of endorsement or even apparent plausibility for the view. We might find it profitable then to take this view seriously. But instead of approaching the matter directly through what others have contended, I prefer to approach it through attention to what must surely seem a major drawback to holding any version of a view according to which salience ensures

legitimacy—no matter how we constrain the salience, namely, it seems likely that we will fail to rid ourselves of epistemically or practically debilitating conflicts.

Different individuals, different groups, or different concerns (no matter how widely shared) possessing different saliences likely will enter into conflicts that will promise to undermine the appeal of saying that salience (appropriately constrained) will ensure legitimacy, that the felt importance of believing or acting will ensure legitimacy. The problem is that if there are irresolvable conflicts over whose salience to valorize, then we might not know of at least two suitably opposed beliefs or acts which to mark as legitimate, or we shall be stuck with the outcome of marking both as legitimate in spite of their conflict. The price of letting salience ensure legitimacy in spite of the dangers of deep disagreements will be the price of contradiction, incoherence or being bogged down in some sort of impossibility of agency.¹⁶ And that is surely too high a price to pay.

Let me take up the connection of salience to legitimacy with an eye to this possibility of deep disagreements, first with respect to critical thinking and legitimate beliefs. Having proposed in that case that we might well make good sense of salience ensuring legitimacy of belief, I will then extend that proposal to the case of legitimate acts. In doing so I will seek to show a way in which the virtues of legitimate ethical reasoning express the virtues of good critical reasoning.

Section II. The Spirit of Critical Thinking

The sorts of conflicts of interest here are those in which each of two single or sets of beliefs or choices of action seem to equally enjoy support of reasons counted as defensible from within some epistemic paradigm and perspective or, as I would prefer to say, from within some community of discussion, and yet these perspectives or communities are (however coherent in themselves) isolated from each other so that in some crucial way they differ with the result that what is justified in one is not justified in the other and conversely, and what marks a belief or act as justified in the one differs from what does so in another, and this difference is irresolvable—it cannot be made up by amending the particulars of one or the other perspective without substantive epistemic or normative loss.¹⁷

For example, for many neurologists the central disorder they seek to find and treat is epilepsy. Their testing equipment and its standard uses as well as the interpretations of results specify a set of possibilities in terms of the rules of inference or argument trees for diagnosis based on EEG and behavioral data, and rules for identifying a drug therapy regimen and for titrating the prescriptions so as to effectively treat these possible disorders. But other neurally based disorders (for example, mitochondrial cytopathies with motor disorders) partially mimicking those expressed in the epilepsy lab do not fit the patterns and paradigms defining possible epileptic disorders, diagnosis techniques and treatment regimens. Among neurologists then there are two conflicting tendencies, one to call these anomalous disorders neurological and expand the range of relevant possibilities, and the other to not do so. What is the case with respect to these disorders? Here are the seeds of a deep disagreement.

Or once again an internecine conflict shows up for example among the Amish who share certain sacred texts (the Bible and their historical book of martyrs) but who interpret these and their lessons for everyday life differently and even sanctify these different interpretations in differences between opposed practical codes (the *Ordnung*). Thus we have a group splintering

off so that its members might have pockets on their work aprons, while those from whom they fragmented mark their preferences, their salience in pockets, as proud and contrary to religious calling, even to the point of calling for the offenders' excommunication and at least to the point of refusing membership in the more traditional of the churches (or groups) they represent.

Or again, among some religions some or all contemporary medical treatments are forbidden not as some how unsanctified, but as confused and opposed to the bases of the religion. Thus Christian Science sees medical disorders as really a kind of failure to maintain the proper religious perspective and attitude, calling for prayer and added fervor of belief, whereas physicians and also representatives of the law see them as physical maladies calling for various sorts of interventions ranging from dietary changes to chemo- or nuclear therapeutic regimens, to surgeries.

Within these examples and others like them, which of the conflicting belief and prescription sets is preferable? When each belief and practice is fully embedded in its background beliefs and developed against differences of definition of key terms such as "neurological disorder," "pride," and "health," the question perhaps is moot, or at the least the way we are to resolve these differences must take us beyond the stands for knowing and doing that operate within each of the conflicting perspectives. We seem to lack any clear way to legitimate one or the other of the opposing salencies.

But where are we to find means to deal adequately and defensibly with these conflicts emanating from different salencies? To get some idea of one way to approach that problem we need to know more about how the conflicts come up. There are four general features of being a critical thinker within a particular perspective which demand our attention in this connection. First, any perspective common to those seeking good reasons to believe or to act defensibly in some domain of concerns or with respect to some set of problems will call upon individuals to practice inquiry in certain ways. The perspective will offer a set of background assumptions about what exists, about how it acts and interacts, and about its significance. This background knowledge defines a set of possibilities which might be realized and are of interest to those seeking to guide belief and action about relevant matters by reference to good reasons. But these possibilities only say what might be and the thinker or agent is interested in what is. Thus in addition to a domain of common problems and a set of background beliefs about things setting the stage of that domain, those operating within a particular perspective will share some set of procedures for testing to see which of the possibilities of interest is realized here and now, and a set of procedures to determine what to do about that. For the purposes of fixing belief or determining the defensible course of action in the circumstances, the problematic, background assumptions, and procedures of particular problem identification and management constitute the sources of a perspective's good reasons for believing or acting in one way or another. Norms of performance within the perspective call for those using it to conduct inquiry in a way advertent to the beliefs and paradigms of investigation of the perspective. If there are differences between those of different perspectives in the norms of performance then, since these determine what (from within that perspective) counts as a good reason for believing or doing something, there will be a difference of what are good reasons between those of the differing perspectives. And, each perspective will impose upon agents operating within it an expectation of integrity to guide belief and practice according to the norms and then the good reasons of the perspective. How might we settle differences between communities of discussion or groups of inquirers accountable to each other for holding to such differing perspectives? Whose integrity should be epistemically dominant? An answer might be sought in asking by what means members of a

perspective might themselves assess the norms of performance of its inquirers? Knowing the answer to that question should allow us to see if there is some way for members of the conflicting groups to come to some sort of agreement in accordance with a common procedure for identifying norms of inquiry and the reasons they support.

Unfortunately, the standard answers do not provide what is needed. Some might claim self-evidence for their norms of inquiry. But unfortunately such an appeal is notoriously unsatisfactory. If it is insisted upon by a proponent of a certain perspective, then by virtue of the structure of the conflicts at hand this appeal is tantamount to begging the question. But if self-evidence is allowed to all contending parties, then there is no reasonable promise of resolution of the conflict.

That promise might seem credible if we switch to the second order consideration of functionality, or, that is, to assessments of how well the various perspectives of the conflicting communities serve in providing norms of inquiry adequate to the problematic of the group; how well do the background assumptions and the rest serve to meet the purposes of the group of inquirers? There is much to worry with here. For example, is there some way to measure functionality or even subjectively so that comparisons could be made if the occasion arose as in a conflict of the sort we are speaking of? But problems of strictly measuring functionality and other issues aside, this appeal will not be likely to help us settle conflicts between groups with differing norms. In those cases where there is a different problematic in each of the conflicting groups, then the norms of inquiry might be equally functional, or not, and still the question remains where does that leave us? For now the issue has become which set of purposes should our norms of inquiry serve, that of the first or that of the second conflicting community?

To be sure we should add to the performance requirement of integrity, or, that is, the requirement of proceeding according to accepted intersubjective standards of inquiry and the requirement of making oneself accountable for objectivity in inquiry, a second kind of performance requirement capturing an aspect of the impartiality of thought. In particular, we should require of thinkers that they credit others' beliefs as of equal standing with their own should these beliefs be supported by reference to the same sorts of methods as are those of their own. Thus, if inquirers form beliefs of what norms to follow in seeking warranted belief, or of what norms to follow in seeking first order beliefs about the world or appropriate action by appeal to the (say freely selected) purposes served thereby, then these thinkers must also credit the beliefs of others when formed in the same ways, *mutatis mutandis*. (I find this general point also in Gibbard, 1990.) Similarly, if the inquirer relies on observation or coherence or deduction from self-evident truths, then *mutatis mutandis*, similar reliance must be respected in others. And, we should require of thinkers that they stand ready to examine their own beliefs and assumptions and be ready to change them or give them up if they are found deficient by such second order standards.

These two aspects of impartiality of thought—a minimal epistemic charity and a readiness for self-criticism comprise a principle of respect for those who seek to live by critical reason. This respect could lead us to accept the legitimacy of others' beliefs if they had formed or tested their norms of inquiry, like us, on the basis of the functionality of these norms for the purposes their group pursues in inquiry. The addition of this principle of charity and self-examination would warrant our respecting and living with or tolerating those who have differences with us attributable to functionality. But while this dissolves the conflict, it does not settle it; instead it only leaves us separated by our different problematic and should we have to choose between these perspectives attuned to these different purposes, we are no better off than

we were in just pursuing our own group integrity. Just so, in the case of a child who will or will not receive treatment for an obstructed bowel, the respect for functional demands attuned to the different purposes of Christian Science or of modern medicine aligned with the law will not help us decide what is the best treatment for the child and what is the apt or the correct view of the health of the child. Furthermore, there is always a conflict between respect and integrity (between self and other respect) in a single thinker or agent. The question continuously is how to balance these. And functionality does not help us understand how we might properly strike a balance between these virtues of critical reasoning. Functionality, as well as respect in the form of charity and a readiness of self-examination are demands appropriate to saliciencies that would lead to beliefs or acts that are legitimate. But they cannot tell the whole story any more than can an appeal to integrity.

Things are no better when we switch to communities which *share* some overall purpose and understanding of the sorts of problems their members will pursue through inquiry. The case of the quarreling Amish and the disagreeing neurologists are cases in point. Here the common problematics and purposes of inquiry serve only to exacerbate the problems since there is no common and consistent set of norms identifying either what particular circumstances will count symptoms as problematic or what will provide a solution to identified problems. Is having pockets on one's work apron proud or not? Does a malady which presents as a disconnect between EEG measurable patterns and behavior indicate a neurological problem within the domain of neurology, or not? In both cases whether the inquirers are confronted with a problem within their ken and whether they have a solution are the issues that the examples bring up. No amount of appeals to self-evidence will settle these questions. And the commonality of a problematic with an account of reasons that is functional for that is of no avail here. So, something more is needed now to resolve such conflicts within a single problematic (broadly construed) and between means for identifying and managing problems.

The case of the neurologists brings into play another factor in decisions between candidates for second level epistemic principles or norms of inquiry which guide us in articulating standards for belief and which in effect identify saliciencies of beliefs that are legitimate. The neurologists might well fall back on their "tried and true" technology and the paradigms of diagnosis tied up with these. "Surely the EEGs and their well known patterns can recognize any real problem of the sort that we neurologists can deal with!" Such an appeal would be to what might be called the logicity or the algorithmic patterns of reasoning involved in a perspective in so far as it identifies and manages problems of the relevant sort. But of course any such appeal would be immediately suspect in resolving conflicts between the traditional neurologists and their detractors. After all, the question is whether their norms of inquiry are right in sanctioning the use of the EEG as the only or the primary diagnostic tool capable of ruling in or ruling out a certain partial range of possible neurological disorders. Paradigms such as the use of EEGs and behavioral monitoring to spot what kind of neurological disorder is present in various patients must not be used beyond their scope and in a conflict of the sort described here; the extent of that scope is the very question at issue. Thus, appeals to logicity at that level are not settled by such appeals, rather they are only entrenched by such appeals. To be sure, logicity is a requirement coming out of but exceeding the requirement of integrity. Since the patterns of reasoning that are called for include those of logic, then logicity goes beyond integrity to be a wholly separate requirement of all perspectives that might generate legitimate beliefs. So, such generalized logicity is a second order requirement beyond that of

functionality, and beyond the performance requirements of integrity and respect for other thinkers.

That said, the addition of logicity will cause us further difficulties when we recognize one other second order requirement of thought generating beliefs with a defensible claim to legitimacy. In the case of the quarreling Amish there is a shared problematic—how to live well in the Amish way, and in accordance with the Bible and The Book of Martyrs. But there is a dispute over how to limit the grant of empowerment to construct meaning and arguments that we must grant to every critical reasoner; namely, in this case a dispute over how to limit the grant of empowerment allowing individuals the space or authority to construct interpretations of these common texts as they apply to everyday life. Whether pockets are proud or not to have on one's work apron is not something we can look to the books for a literal reading on and so interpretation and application is called for. But then whose interpretation, whose reading? Tradition would leave us with no pockets. An alternative reading would leave us with pockets of fragmentation and disharmony. Critical thought being constructive, as noted above, calls for a certain amount of empowerment to make such interpretations, for a certain amount of authority and then for the granting of that to have salience for all in the community in question, if not beyond. But how much? There is no obvious answer, none that is not worked out in practice in the give and take of articulating and enforcing norms of inquiry. But that is the problem. For the more traditional Amish in the dispute there is no give and take to be allowed on the matter.

Appealing to integrity or respect does not help. These only tell us that in inquiry we are to hew close to the line of the group, and yet we are to be self-critical and not hypocritical or otherwise inconsistent or question begging in faulting other's thinking. These requirements of performance are not helpful here, calling as they do for the norms of inquiry that would define the group lines and the need for charity and self-criticism. And when we move to other concerns we are to meet as we articulate and negotiate our first level norms of inquiry, the concerns of functionality and logicity, these are no help in telling us how to construct the second level concern for empowerment. Indeed, a call for empowerment works against a call for logicity and challenges the traditions of interpretation of the group's problematic in ways that might redefine just what is functional for inquiry in the group. Thus we seem to have only another or a second layer of concerns in need of balancing if we are to identify good reasons for believing something. And then we have only a second set of problems to address as we seek to articulate the constraints on salience that would lead us to adopt defensible second level norms for guiding inquiry. Empowerment is properly salient as is functionality and logicity. But how much and in what forms, remain the questions before us. And with these questions the conflicts remain.

One last resort remains open to us. If we are not to limit apriori the "contents, procedures, strategies, purposes and practitioners of thought," we must seek to constrain first order norms of the performance of inquiry and second order norms of the articulation and maintenance of those first level norms only by reference to whether their adoption will serve the sustained flourishing of critical thought. What medical interventions or tolerances would best serve the child of the Christian Scientist and the faithful, and the others in a shared society in so far as they are critical reasoners? What extension or limitation of neurology would best serve that field of medicine and science and its patients in so far as it is a field of critical inquiry? What allowances of interpretation of the texts and teaching of Amman would best serve the disputing Amish in the endeavor of guiding their lives by reason? And, in every case, what construction of the social circumstances and what damping of the social impact of the practice of communities of discussion would best serve the sustained flourishing of critical thought

throughout societies? These are not factual questions. Instead, to draw on my earlier discussion of this point, I would say that the task is one of striking a number of appropriate balances in society, creating the circumstances of the flourishing of critical thought overall. And, "the task of striking those balances is really a matter of sustaining a number of conversational constructions each of which constitutes the uneasy co-existence of competing communities and the totality of which constitutes the blending of our lives as critical thinkers into the receding horizons of [our shared] future" (Blatz 1997. 49).

There are general attitudes and concerns and expectations we need to have as dominant in so far as we are critical thinkers, concerns for such issues as our group's problematic and for integrity in dealing with it, attitudes such as respect, expectations such as functionality, logicity and empowerment, all wrapped in an overriding concern for the sustained flourishing of critical thought. (And there are concerns particular to the various communities in which we visit or participate as members. See Blatz 1997.) To the extent that these are taken to heart, and inform what is marked as salient in the thought—either reflective or in the thought of the pre-conscious experience of an agent, they imbue that thought with what might be called the spirit of critical thinking. Thus we might say that salience felt in the spirit of critical thinking (and acted upon in inquiry) ensures legitimacy of belief. There are, it seems then, a number of virtues of critical thought that will by their presence and influence ensure legitimacy of belief. Might the same be said for salience bearing on the legitimacy of action? If legitimacy in ethical thinking were one form of critical thought, then it would seem that the answer to this question is, yes. But is this so? Or rather, is legitimacy in ethical thinking restricted or constrained by legitimacy in critical thinking? And if it is, what more is distinctive about thought generating good reasons for acting among others in some way or another? I want to turn to the first of these two questions now and I will conclude with some brief remarks on the second.

Section III. Salience, Impartiality, Legitimacy of Belief, and Legitimacy of Action

One key connection between legitimacy of thought and legitimacy of action is found in the notion of impartiality. Impartiality among ethical agents arguably supplies a large part of the core of normativity—the legitimacy and authority of the ethical guides we articulate and use to direct or constrain our actions. Of course, the notion of impartiality is implicated with ethical normativity in a number of interconnected ways. In the interest of just moving to a brief consideration of what are perhaps the most central of these dimensions of impartiality, let me first suggest a list. Impartiality comprises at least:

- 1) *an insistence upon some appropriate kind of universality of norms—impartiality in the scope of legitimate norms and normative considerations*
- 2) *a tendency toward appropriate equality of treatment—impartiality in the respect with which we respond to self and others*
- 3) *an apt uniformity in expectations of thought and performance—impartiality in making demands of self and others*
- 4) *an attitude supporting the meeting of agents on their own terms and thus without prejudgment—impartiality in the response to agents with standing*

- 5) *a tendency to consider ethical questions in each case on their own merits and alone in terms of the salencies present—impartiality in the basis of ethical problems and their solution*
- 6) *and a readiness to grant authority and deference due to agents because of their ethical standing—impartiality in the recognition of ethical agents as having standing.*

This characterization of some dimensions of impartiality will be sharpened up below, but can serve to stimulate our intuitive grasp of impartiality as a matter of the relations between agents sharing, through the exchange of reasons, the space in which they exercise their choice.

What is the relation of the desired features of critical thinkers to impartiality of this sort? To live within the spirit of critical thinking is to express and conscientiously maintain certain limitations on thought and action. These include: a form of epistemic integrity, a form of respect including a readiness for self-criticism and a form of epistemic charity. To think with a commitment to integrity and respect will lead us toward an acceptance of accountability for the purposes, methods, and particular uses of thought in agency (integrity of thought guiding agency), and an acceptance of responsibility for the consequences of our thought in agency (integrity and respect of thought guiding agency). In addition, our concern for the self-criticism and for the sustained flourishing of critical thinking will carry over to the domain of agency as an openness or readiness to include all thinkers within the scope of our integrity, charity, accountability and responsibility. And that same concern for the sustained flourishing, as well as the reciprocal nature of standing and authority, will support an expectation of all thinkers that they will operate with the same concerns, and with a readiness to pursue harmony or accord with those who are seeking to act in ways expressing these constraints.

Now it is not a far reach from here to ethical impartiality. A review of these implications of the spirit of critical thinking reveals how they might bridge that spirit to the concern with ethical impartiality. Thus for each of the above listed aspects of ethical impartiality, there are aspects of the spirit of critical thinking which are such that their presence seems likely to ensure the presence of that dimension of impartiality. And thus for each of the above we can look to the following to find the seeds of an argument to the effect that the spirit of critical thought will ensure that aspect of impartiality.

- 1) *An insistence upon some appropriate kind of universality of norms-- impartiality in the scope of legitimate norms and normative considerations:*
- a) This dimension of impartiality is subject to at least three readings which we need to consider separately. First, a concern with integrity and respect in combination with logicity will call for us to abide by principles of consistency and coherence in our thinking about what is called for by defensible norms or by good reasons. This generates an insistence upon universality of norms in that norms and reasons for action will hold good for agents facing the same choices in the same circumstances. Numerical difference between agents will not make a difference to what is ethically salient if it is legitimate.
 - b) But as well, the universality of norms is also a personal matter of integrity of thought in that other things being equal it would be personally inconsistent as a matter of practice to mark a consideration as a good reason for an action in one case but not for a similar act in other similar cases. Of course we change

and what might be permitted for us changes with these changes to some extent. But, other things being equal, changes of occasion of choice and action do not by themselves change the legitimate acts open to us and it is a sign of integrity that we reflect this in our choices and our actions.

- c) Third, the universality of norms is also a social matter in that those in a single normative group or ethical community of discussion would seek common norms guaranteeing that the same acts are equally legitimate in the same sorts of circumstances. And this is so for a number of reasons. First are considerations of consistency, and secondly are considerations of group integrity. But in addition, and if for no other reason, groups would seek this logical sort of universality in light of the fact that norms common in this way would provide one important mark of the boundaries of proper empowerment with respect to ethical thinking at a given time and within that group. Groups must signal or else express the degree to which agents are empowered to exercise their basic normative authority concerning matters of interest to the group. This can be done in many ways, for example, by the degree of vagueness allowed in the statement of norms and by the laxity of accountability procedures. But underlying all such measures will be the adherence to impartiality in the sense of norms being articulated, supported and used as universal in the way suggested.
- 2) *A tendency toward appropriate equality of treatment:* However, the above is not all of impartiality, by any means. Questions of distributive justice aside, the present aspect of impartiality focuses not on equality of position, opportunity, material goods, and other aspects of material justice, but rather on the respect and recognition due to all ethical agents from each other. This respect calls for each (through the principles of charity and self-criticism, and operating within the concern for the sustained flourishing of critical thinking) to grant to others the recognition and accountability needed to function with some basic normative authority. This, in combination with our responding to that constraint of logicity of not begging the question against opposing or different ethical views, will ensure others at least a minimal place in the social space of ethical agency. This is certainly one fundamental aspect of a basic equality of treatment called for from one ethical agent to others. But how far does that equality of treatment reach as an expression of impartiality? The answer that is legitimate and operative at any time in any society depends upon a number of factors. (See number 6 below.)
- 3) *An apt uniformity in expectations of thought and performance:* Consistency and nonquestion begginess demanded by generalized logicity and informed by the tendency toward equality of treatment just spoken of and along with the tendencies toward universality of norms within and even between groups, will direct us toward an apt uniformity in expectations of thought and performance with respect to self and others. Still, authority and empowerment will make this no more than a personally and socially apt uniformity within the concern for the sustained flourishing of critical ethical reasoning. And thus in context, this qualification will introduce differences between agents, for example, of

different ages, experience and skill levels, education, and resources. (Also see number 1.c.)

- 4) *An attitude supporting the meeting of agents on their own terms and thus without prejudice:* Accountability and the responsibility to subject our own beliefs of what is ethically defensible to criticism, when combined with charity toward the views of others and the recognition reciprocally due to them will take us to others and their acts in such a way as to meet them on their own terms treating them at least presumptively as ethical authorities in a position to demand of us serious consideration if not acceptance of what they believe.
- 5) *A tendency to consider ethical questions in each case on their own merits and alone in terms of the saliences present:* And thus for the reasons we would seek to meet self and others as ethical authorities (at least presumptively), just so we would tend to consider ethical questions whether raised by ourselves or others as possibly being authoritative or having merit to which we must accede through serious consideration in which we approach the agent's views in part through just those saliences that agent saw in the cases in question.
- 6) *And a readiness to grant authority and deference due to agents because of their ethical standing:* How far does the scope of the points in 2, 4 and 5 extend? The overriding concern for the sustained flourishing of critical thought will require that we remain open to engagement, on the terms of critical thinking, with any who is or proves to be committed to making a life together on such terms. Within the space of our ethical agency this must include all those from whom we would seek recognition and accountability sufficient to establish us with the authority empowering us in our thought and action to be ethical agents constructing a personal future. And it will include as well those who would seek authorization from us to function as agents themselves. But further, since ethical agency calls for us to operate upon or act from good reasons and just what counts as such reasons is a social or interpersonal matter, not merely a personal matter, and since the community of discussion for legitimacy is marked off by a boundary always porous because of the requirement to remain open to criticism from others and oneself, then the interpersonal engagements we have as ethical agents acting on good reasons are theoretically limitless. Thus we will operate presumptively in general so as to extend to all potential ethical agents authority and deference as agents with standing. In practice of course, these bounds are limited by practical necessity, by the boundaries of communities in which we are operatively, and not just abstractly or ideally, accountable for our acts, and by the social conditions of the institutionalization of the articulation and maintenance of norms as ways of seeing to the flourishing of critical thought. Thus for example, the institutions giving life to the social conditions of the practice of law will draw those operative boundaries in ways different from those of economics and from those of morality. Still the presumption is in favor of institutionalizing systems that are maximally inclusive and engaging.

Thus there are such connections between living within the spirit of critical thinking and living an ethically impartial life that we can see that the former will ensure the latter in an

important range of the dimensions of ethical impartiality. Further, then, meeting the conditions of living within the spirit of critical thinking will ensure that ethical agents operate within a spirit of ethical impartiality in the sense in question. Those for whom salience in the domain of action is constrained by the spirit of critical thinking will also be agents whose saliences in action will have a claim to ethical legitimacy that is attributable to their being appropriately impartial. This takes the saliences of such agents a long way toward ethical legitimacy.

Still a long way is not necessarily the whole way. Part of the gap as approached through the virtues and relationships of the ethical agent (and not through the evidentiary conditions of knowing the ethically legitimate) can be closed by developing an account of just what more is supplied epistemically by our encounters with others in the contexts of agents standing accountable for their ethical thinking and choices. That inquiry will have to be taken up elsewhere, later. Part of the difficulty there lies in the fact that the account of salience that I have given thus far is a very thin one and so it is not clear just what more goes into the ingredients of defensible ethical salience besides concerns of impartiality. And, if there is more will this make ethical salience an expression of personal interest or in that way make ethical salience partial? Do we need to introduce partiality into ethical salience that is legitimate? Or is reason alone capable of providing us salience that could serve to direct us in critical inquiry and in ethics? Can reason, in that way, be practical? If not, then how might we introduce partiality into the saliences of defensible ethical agency?

Section IV. The Bond of Salience to Legitimacy: Reason or Commitment?

The question here is a rather particular one. I imagine that critical reasoning can in some crucial way determine the saliences through which we meet the world and from which we derive the reasons for our actions, even when this process is part of the pre-conscious engagement of agents with the world in the presence of which we act. But the question then is whether critical reasoning is put in this role by arguments worked out in critical reasoning—does or could critical reasoning bootstrap itself into the role of determining the very saliences we are struck by in our engagements with the world, or is critical reason put in the position of constraining or limiting these saliences only by the agent's personal commitment or decision to act under the guidance of reason?¹⁸ Thus here the question is whether reason, by argument, can move us into accepting the constraints of seeking legitimate reasons for our action, or whether independently of argument we come to accept the discipline of reason (instead of the exercise of power or guile) as something we choose as a way of living. Could we argue our way into following good reasons in our actions where ethical assessment might play a role? Could this really be so?

Well we cannot prove that ethics is correct by force (force proves nothing). And we cannot bring someone to more than outward conformity by force (the commitment force brings us to avoid harm and pain, not necessarily to endorse what the forceful say or believe, even in the psychology of the Stockholm Syndrome). But could reason prove that following reason is the best way to proceed, independently of whether it could guarantee by such a proof that we are motivated to live according to reason or to limit the saliences through which we meet the world to what reason calls for? That is, if someone already accepted the legitimacy of appeals to reasons (and so was moved to some extent to seek such reasons for what she believes or chooses and perhaps even to follow them once found), can we give good reasons to anyone for following reason in the areas of concern addressed by ethics? *Perhaps the appeal should go: We should*

follow reason in matters of practical concern because doing so is one case of following reason in general and all cases of doing that are good or right or correct? But if we are trying to support following reason in the area of ethics, if that is something under contention, how could we claim that all cases of following reason in general are good or right—what we are trying to establish by reason is itself a case of following reason and doing so in general is under contention, then we cannot say that all cases of following reason are good or right.

Now any more particular argument for the goodness or rightness or correctness of following reason presupposes the correctness of following the reasons given or following reason in general, and in either case it would be question begging to give reasons to prove that we should follow reason in the form of ethics. It seems then that this is a choice we must make because it will serve our purposes as agents acting in a world of others influenced and interfered with by our undertakings. Our personal agenda or our aims in our undertakings will make a difference to others. And whether we intend to proceed with those undertakings so as to see to them by reason and in a way including deference to our entanglements with these others, or whether we decide to power our way through these entanglements marking others as only potential obstacles, is one thing that accounts for the kind of difference we will make to others. If our purpose comes to be one of meeting others on a ground of feeling and desire informed by reason, then we can explain our commitment to the spirit of critical thinking and to ethical impartiality as simply a commitment to the means to serve this purpose. And even though reference to this commitment and the means to serving that purpose do not prove the commitment to critical reason is right or correct, still this rationalization makes it understandable that we would make the commitment to reason as our way of living. In no case do we have a proof of the goodness or rightness or correctness of following reason. And then it would seem that living by reasons in ethics as an expression of the use of critical reason is something we freely commit to, or not; it is not something we must accept because of the call of reasoning itself. (See again Railton 2000 on Kantian authority of reasons in ethics.)

Section V. Partiality, Salience, Feeling and the Font of Ethics: Supplementing Legitimacy on the Way to Salience in Ethical Agency

Thus commitment brings legitimacy and reasons into saliency. But how do self and others come into these reasons and into saliencies? Part of the answer is that individuals bring to the circumstances of their action their own wants, hopes, fears, history of commitments, and other personal concerns which shape what has felt importance for them in those circumstances. But in addition to these idiosyncratically personal factors expressed in salience there are two other sorts of concerns which shape what felt importance the circumstances of our agency possess. These are impersonal in so far as they do not express the individual history or undertakings of the agent. At the same time they are not impersonal in the way the commitment to legitimacy is impersonal. They are taken up by the agent as an aspect of the agent's outlook and in particular they bear on the agent's regard of others who are or who might be encountered in the act in question. The first of these might be spoken of as the degree of consideration or accord we offer toward another as we act. Alternatively we might speak of the degree of engagement with others we are open to when we act. The second form of regard toward others making salient their presence in our space of agency is one we bear as an expression of the type of ethical reasons that we are open to have constraining our action in the circumstances. These

considerations of accord or degree of engagement sought with others, and considerations of ethical regard, when added to the personal history and agenda of the undertakings we prosecute, and the concern for impartiality with which we act, together provide us with a robust sensitivity to the circumstances of our presence as agents among and interrelated to other agents, and thus equip us with the capacity to respond differentially to changes in those circumstances assigning to some changes a positive felt importance and to others a negative felt importance. These considerations, our history, our commitment to reason's impartiality all provide a capacity to respond to our circumstances in nuanced ways through personal but "other-aware" saliences we find ourselves with in those circumstances. In order to round out the account of impartiality as a universalizing constraint on salience, let me explain a little of how our concern for impartiality and our personal agenda are supplemented by these chosen and so partial, but yet common or general forms of regard toward others.

Grades of Involvement with Others through Ethics:

There are several different degrees of accord, or grades of involvement or engagement we might seek (and so be sensitive to) in action that entangles us with others. Any one or more of these might serve as a source of felt importance attaching to some as opposed to other occurrences and to some of the possible responses we notice as agents. Ethics have point because we have choices we need to think about, and these choices are the options we have in situations where we can make mistakes or get things wrong or have our handling of a situation come off well or less than optimally. In all of these ways of going well or sour, our choices and the ensuing actions possibly will involve us with self or others in one or another kind of misadventure (either the other we would like ourselves to be or the other that we aspire to be, or else the other whom we come in contact with and who is a different person, a different center of choice). If a choice does not involve the potential of failure in our involvement with another of significance—our better self, a self we are striving to be, another person, another animal or other living thing, then there is no ethical dimension to it. Ethics has to do with choices involving others or the self considered as another. If this were not so then ethics would apply to acts or ways of being which would make no difference to anyone or any being of significance. This seems incoherent.

Thus, in order to understand ethics we must see them as attached to choices involving others of significance. Ethical matters will involve us with others through our choices. These choices will bear on how we are with others—what sort of co-presence we strive to establish and maintain with these others. What I mean is that ethical agency involves the exercise of choice in which we relate to others more or less closely, in one or more of a number of possible ways. The barest sketch of these ways follows:

- We might choose so that we affect only our co-existence with another, or so that our coordination with others' actions prevents our interfering with them, though this involves nothing more than staying out of their way. For example, we share the road with another; we live in peace obeying the laws and not interfering with others, even as we remain total strangers with respect to each other. The quality of our relationship on these terms is only that of unintentionally coordinated but anonymous

- co-existence. And the affect that is appropriate to that level of engagement might be spoken of as mere tolerance.¹⁹
- Or again, we might exercise our choice paying heed to others so that we achieve or maintain some form of harmony or mutual noninterference with them. Here we are not just avoiding interference with them, but we actually become involved in a reciprocal relationship of at least intentional coordination that ensures noninterference, and perhaps we even begin to develop mutual concern. For example, we share a dance floor with others, or we stand in line for the same play with others, or we share the road with others through adherence to a common set of regulations of speed, stopping and starting, counting on others to notice us and advert to our presence through the rules or conventions of the agency space in which we operate, and so on. The quality of our relationship would be more than mere co-existence even though we remain strangers. The quality would be more one of getting along with or co-occurring or being co-present with each other. And the affect that is appropriate to that level of engagement is respect.
 - If we deepen our getting along with others by virtue of including a knowledge of others and they of us, a knowledge that is personal to some extent, then we have come together and are acting (even though separately) partially in light of being in some relationship with particular others. For example, we might get to know each other in a class, or in a research group, or a conference, and even though we do not seek each other's company or come in contact with each other with any further personal interest outside of that space, we do there. Hence we achieve a bit closer relationship with those individuals in the class (etc.) than with those with whom we share the road on the way to class. Here the quality of our relationship has become more than mere co-existence and more than merely getting along. We have some common concerns, some mutual knowledge of each other as individual persons. We have come together in our agency, and the impact of our acts on each other as real individuals sharing agency space has come to be a matter of personal knowledge and concern. We would look out so as to not disturb each other, but we also work with the other toward common ends individually lived. And this basis of commonality and familiarity changes our regard toward each other. The affect that is appropriate to that level of engagement is empathy.
 - But also, by investing more and acting with respect to others with more personal knowledge, while still not necessarily possessing great knowledge, we might shape our choices and act with regard to others so that we form or further a relationship of acting together with a common end, lived together, and so that we cluster the interests and projects of others with our own; perhaps we even enter a relationship in which we form or function as in a collective agency together. For example we take part in the same firm, in the same concert orchestra, we form a friendship, a marriage, or other joint venture and so come to know or become aware of each other personally even to a greater extent than we would if we had only come together in our agency, but remained apart as agents not bundling our interests or personal projects with those of the other. Here the demands of operating within a joint venture would require that we achieve some degree of harmonious interaction—even if this is only with regard to some small and highly compartmentalized portion of our agency—such as workplace

- behavior and the minimal concerns for harmony that go with that endeavor. And the affect that is appropriate to that level of engagement is sympathy.
- And finally, we can form our attitudes, our values, our hopes, and as well, so constrain our choices as to achieve some form and degree of identity with another—we come to act not as separate individuals in a collective, but as one individual, each sharing with the other some of the same commitments, values, stakes, and each empowered to act as the other, and each benefiting and suffering from the consequences of action in the same ways and roughly to the same extent. Then, in such a case, as agents exercising choice, we would have become one. Thus parents who function as one, life partners who have been together through much and become devoted to each other, persons taking part as a team member wherever all have come to take personally the stakes and responsibilities of each other—for example members of a group activity with high personal stakes common for all (as in a climbing team, or a combat team) can achieve a quality of relationship with another agent that amounts to (partial) identity. As agents exercising choice they can become one. And the affect that is appropriate to that level of engagement is a feeling of identity.

Which of these degrees of involvement or engagement we adopt as we become entangled in our agency will vary with the physical and psychological circumstance of our actions, with the institutions and traditions of the society in which we act, and with the degree of openness each of the agents is capable of—and thus with our personal approach to ethics, either agonistic or as a mutual enterprise of coordination and cooperation. Not every form of entanglement is compatible with every level of engagement or involvement. We do not identify or even empathize with those on the road with us in rush hour traffic. Or we usually do not—if we see someone cut off ahead of us, or otherwise endangered, we can take that very personally and come to identify vicariously with that victim, or we might at least empathize, even if we do not and never will know that person. We can approximate (in our feelings at any rate) a deep or even the fullest degree of engagement through the other toward the third driver, even though we do not really become one with that other in our agency. And, not every form of entanglement that is possibly a site for a variety of degrees of involvement between the individuals entangled will develop to have all degrees of engagement that it might. Perhaps many marriages with children do not achieve that condition in which the parents become one or identified in their agency. Perhaps those involved could not bring themselves to seek it out. But then so goes one internal conflict localized in marriage as a setting of procreation and child rearing having co-evolved with technology, the division of labor, and the nature of work in the industrialized north.

Depending upon how we select from among these degrees of accord and thereby partially construct our regard of others, our salencies will differ. And then what is to count as legitimate for us will have to constrain while yet being attuned to these differences. Perhaps sympathy cannot be legitimately expected of us in every act with regard to just anyone. But when it would be a normal part of or a possible normal part of our relationship with someone, it is inappropriate and perhaps not legitimate ethically to act with less regard toward that other person. Thus snubbing someone in public when we know her well, or failing to be solicitous of another who is sick and failing to do so in a way reflecting and regenerating the fact of close personal friendship and thus failing to act with some sympathy will fall short of what would be normally expected of us in our society. Perhaps we would not judge someone harshly in the face of such failings, perhaps we would, but the point is that we are not just expected to perform a token of some act

type, but we are expected to do so with appropriate consideration and it is marked as a lack of not just civility but of ethical achievement to fail to do so. Ethical expectations do not just call for behavior, but they call for behavioral expressions of personal relationship and regard towards others. Saliencies must equip us to an extent reflecting these expectations and the contribution of degrees of accord we might seek in our acts provides that equipment.

Forms of Regard for Others--With Different Families of Ethics

One other element of our regard of others or ourselves as we act will make a difference to saliencies that are legitimate and to whether we meet the ethical expectations upon us. We are not just subject to the expectations of morality, or of law, but these and also the expectations of economics or prudence and perhaps as a matter of fact less so, the expectations of aesthetics in our personal life. These various ethics seem naturally associated with various regards we might hold the other in as we act. And here I am speaking of the regard we hold that other's interests in as we act and are entangled with the other. Different ethics seem to be associated with or seem open to characterization in part in terms of one or another of differing regards we might hold the interests of others in as we act. Notice that as we interact, we can regard others as:

1. competitors for scarce goods such as food, money, status
2. as individuals for whose well being we are responsible (either in terms of what we might provide or what we might refrain from removing) in the eyes of a impartial third party-power
3. as individuals whose well being we are responsible for (either in terms of what we might provide or what we might refrain from removing) just in so far as they are agents or capable of being agents in their own right and
4. as individuals whose well being or flourishing as an agent is important to our achieving a certain satisfying style or felt fittingness or comfort in our own life as an agent and in our lives together as agents in the personal and the social of our becoming.

Each of these regards can be seen as being a capacity we have as agents; a capacity for meeting others, those with whom we are or become entangled, on certain terms. And although I hesitate to suggest that this is any more than the way things have come to be—not a matter of the transcendently defined possibilities, it seems likely that as full agents we will always approach others (in ethical behavior) through one of these regards toward their interests just as we approach them striving for some degree of accord or engagement. Thus we need to attune legitimacy to these possibilities and we might type reasons accordingly as their saliencies are constrained according to one kind of ethic or another. Thus these forms of regard and their presence in our interactions with others give point to various kinds of ethical reasons and the associated norms so that each is a kind of regard that is seen to or expressed effectively by our guiding our choices according to a certain sort of (potentially competing) ethic. For 1. there is prudence or economic reasoning in ethics, for 2. there is law, for 3. there is morality, for 4. aesthetics. These regards of the other's interests and the accompanying ethics are all sources of ethical rules understood according to what some call a material or substantive condition and not just a formal condition, even though the rules in these ethics have formal conditions as well. Thus formally, the ethic attuned to 1. comprises rules that are naturally enforced and both

formally and informally articulated, 2. comprises a set of rules that are formally enforced and articulated, 3. comprises a set of rules informally enforced and articulated, and 4. comprises norms resting in the pre-reflective and expressed only intuitively (and perhaps these norms are not even expressible as rules but can be articulated only as personal openings of perception even when cast as commentary offered in the social setting of the production of style and art).

Thus by looking to the sensitivities expressed in the saliences through which we meet the world we might develop agonistic and mutualistic ethics appropriate to different levels of engagement with those of significance with whom/which we become entangled. And these ethics can further be divided into different kinds depending upon the kind of regard for the interests of those others which the rules allow us to express and pursue in our actions.

Saliencies indeed must be constrained by considerations of legitimacy. But on the view I have suggested here, this constraint does not leave ethics as merely formally ensured expressions of impartiality. Ethics are also properly partial in a number of ways, and most generally and commonly, they are partial as a function of the terms upon which we meet others in our presence in agency space. And yet these forms of partiality can be seen as either limits on the constraining influence of impartiality in the generation of reasons for action, or as nuances in the ways the constraining influences of impartiality attune our saliences and then reasons for action to the world as we meet it through the various limited forms our regard of others in fact takes in our acts. In other words, the font of ethics or the source of ethical content is not merely in the spirit of critical thinking translated through the spirit of ethics as expressed in constraints of impartiality. Rather that font is found not only in impartiality, but also in our own capacities and in our need to act always with an eye on some degree of accord with or engagement with others, and with one or another of the kinds of regard we might have toward another's welfare as we proceed. And of course it is found in the wholly partial personal history and agenda we bring to the act.

We must be careful in our choices of the perspective upon which we meet others, that is in our sought after accord and our regard of others, if we are to be responsible. Different sorts of ethics will make most sense only with different sorts of accords, because the different degrees of engagement go well only with different sorts of regards. And even more might be asked of us in so far as we might be called upon to elevate one of the possible sorts of ethics above the others—for then we would possibly be expected to elevate one level of engagement above the others. And conversely, it might well be that if we are to get the most out of life to flourish fully, as the kinds of agents we are or can become, we would need to strive to reach the deepest level of accord or, that is, the fullest engagement possible with other beings—perhaps human and other beings. And in that case, the striving for a self-realizing accord would drag along ethical regard, for perhaps only moral or aesthetic regard might be suitable to that degree of accord. Thus morality or aesthetics and the affect/level of engagement of identity might play out as the ideal pair in our most responsible thought about how to act and how to be in a world where we are entangled with others.²⁰

Section VI. The End Game of Legitimizing Ethical Saliencies

Thus in this discussion I have explored some aspects of the problem of legitimacy in ethics and the relation found in salience that is legitimate between the spirit of critical thinking and what might be called the spirit of ethical agency. In creating a socially real world in which

there is a spirit of ethical agency linked as I have suggested to a spirit of critical thinking, we engage in the task of making ethics and ethical expectations socially real, and so linking salience and legitimacy. Thus on the view presented here, this enterprise of making ethics socially real and attuned to our saliences is an enterprise of making socially real the spirit of critical thinking within the realm of the guidance of interpersonal relations. And this enterprise is one best understood in terms of nurturing the virtues of living in the spirit of ethical agency, not in terms of the evidentiary relations underlying justification of ethical claims. As such this undertaking is something we can understand as part of our attempt to live in a world of responsible agency. It is not something we can justify by appeal to the way of things.

Is there some way we might justify the call for living within the spirit of critical agency and then the spirit of ethical agency? The constraints comprising the critical spirit limit the articulation of norms of both critical and ethical thinking, but this does not mean that we are bound by them simply because we must think critically or ethically, if at all. (Habermas, Apel and the claims of communicative ethics notwithstanding.) Rather they come to us through a voluntary commitment to use and follow critical reason in our life. But once undertaken, as this commitment is expressed in action it will amount to an expression of impartiality in ethics. And so, this commitment will be lived in our agency as though we have committed to live according to impartial ethical guidance.

Thus, I hold to a weak (or really, a voluntaristic) ethical internalism that seems to be embedded within a commitment to the spirit of critical thinking. On this view, as we seek after the legitimacy of norms that might guide us to living well, what we should pay attention to is neither evidentiary relationships between reasons and avowed attitudes or choices, nor formal constraints upon intentions or upon maxims of action. (At least these are not pertinent when we are speaking of the project of understanding the proper selection of norms and their prospective influence in our lives. If these influences can be presupposed in a retrospective context of holding someone to account for what was done, we could properly turn our attention to the evidentiary relationships between norms and claims about what was right or wrong or permitted in the circumstances.) Instead of looking at the evidentiary and formal conditions of legitimate norms, we should find our way to the ethical by turning toward the formation and enactment of virtues expressed in lived or socially real perspectives on legitimacy--virtues which are formed in co-evolution with and so in a way reflecting and expressing the personal affect of the ethical agent. This captured, we will have as a basis of reasons in ethics not the truth of what a separate reality demands of us ethically, but the verisimilitude of what our being in the world as an ethical agent demands of us. Thus in seeking norms to live by we will seek what in our presence in the world has the intersubjective appearance of being true, that is what is known to be true of our reality as we live in it—even if what we think we find true of that lived reality is not any part of or even supervenient upon any set of objective features of the world. What we will have then will possess the ring of truth, so that it seems really to fit the world in every way practical for our actions. And we will reflect this in our reasoning within in our communities of ethical inquiry about particular expressions of right or permitted courses of action, and then in our claims about the evidentiary relationships within that reasoning. Of course, this reasoning will amount to a personal construction of the permitted and the defense of this in accountability to others will amount to a construction of the social reality of the permitted. Nevertheless, to ensure this much of our practice of life within the spirit of critical agency, we shall have constructed and will be maintaining a world as real as we might ever live. That much is perhaps the closest we come to

limiting salience to truth or to suiting salience to truth or to really getting at the world as it is, ethically speaking.

Notes

¹ Even this, as circumspect as it is, would be considered by some to be too “thick” a picture of normativity. See Dancy’s introduction for example: “It is often said that normativity is the characteristic common to everything that appears on the ‘ought’ side of the distinction between what is and what ought to be” (Dancy 2000. vii). But as Dancy himself says, this is too restrictive in the forms of assessment it includes. Further, it tendentiously assumes we can make a clear distinction between what is and what ought to be, and finally, as we shall see, in its turning to a clear distinction between the way things are and the way they ought to be the approach draws our attention away from important social dimensions of our living with normative constraints.

² I shall not hereafter continue to add “or belief, or choice” though unless otherwise qualified, I will intend these additions to fall within the scope of my statements.

³ For presentations of ideal observer theories and related relevant epistemologies, see Brandt, Firth, Rawls, and for one discussion of related points see Gibbard.

⁴ Once again the complex process hinted at here might be fully conscious and deliberate, or might be found below the conscious level and so appear automatic.

⁵ From now on I shall avoid the cumbersome repetition of “or could have” to indicate that not all thought and action meeting normative expectations need proceed from a conscious, and reflective or deliberate review of the legitimacy of the salient or relevant alternatives.

⁶ This might be the point at which to comment on a possible objection—namely, that legitimacy of the sort I have spoken of is only that attuned to the individual responsibility of a critical thinker or an ethical agent operating on her or his own. Wouldn’t things be different for the thinker or agent as a member of a collective or as constrained by the requirements of a large social or economic or political system of which the agent is a functioning member? (Bradley for example speaks this way at points in “My Station and Its Duties,” [see Bradley 1962], as does Royce [see Royce 1929. 264-265] and contemporary communitarians.) Indeed, is this not one benefit of the wisdom of evolution as expressed in epigenic rules in sociobiology—see Ruse? Also see Deep Ecologists and perhaps social ecologists.) Mightn’t our responsibility both as a critical thinker and as an ethical agent be to hew to the party line or to respect the needs of the species, for example, to the exclusion of the endorsement of individually legitimate acts of the sort endorsed above? Well, to be sure, on reflection we might commit ourselves to such a program. But we cannot escape the responsibility we have for doing so only after examination into the legitimacy of doing so as discussed above. Sociobiology and the rest do not claim blind allegiance shutting off all thought except that which is the party line. Rather they present reasons for adopting that party line and defending it against all comers. Thus even here the

presumption in the practice of legitimacy is that individual critical responsibility is always foundational and never satisfied. (For a similar point made in a dissimilar but related context, see Bergson 1935. 12.)

⁷ In what follows then, I will be working on the issue of what puts us in a position to demand an act or line of action of the self or others. This can be approached in terms of looking at the demand and the making of the demand to find authoritativeness. But I shall be taking a different approach—namely that of seeking to understand the position of authority as a position in a relationship and seeking to understand its origins in terms of what might constitute that relationship. One question here is whether each critical or ethical agent always has standing as an authority for self and others at least in some matters. I will be working toward a positive answer. (See also Gibbard on fundamental authority (Gibbard 1990. 175 and ff).)

⁸ See Dancy 2000 who distinguishes an act's being "favoured by the circumstances" from its being "demanded by the situation." What is "favoured" seems in Dancy's thinking to be a comparative matter since different options might be more or less favored while being demanded in a situation is not a comparative matter. "'Demanded' does not just mean 'most/more favoured'" (Dancy 2000. viii). I take it that part of what is at issue here is that the normativity of an option of action (or, presumably, of a belief) might accord it a status of being fully or supremely abstractly authoritative over us, or might afford those who expect it an incontrovertible personal authority over us, or might accord their personal authority a primacy over ours in the matter at hand. If Railton (2000) is correct it will be this primacy that is accorded to the normativity of all of *morality* (over that of prudence or economic self-interest for example) and is felt in our feeling compelled (if we do) to conform our reason and attitude (and so our conduct and our undertakings) to the demands of morality.

⁹ This is similar in its pretensions to what Alan Gibbard (1990) calls "fundamental authority," but differs from Gibbard's notion in being limited to what I have called personal authority and being only presumed for agents in some societies whereas fundamental authority seems more like a form of abstract authority and something anyone can claim at any time within and across various groups circumscribed by accountability on certain matters.

¹⁰ Why should the grant be mutual and more or less pervasive? I have argued elsewhere that if one is able to extend recognition giving standing, and to grant accountability (which presupposes recognizing as having standing those to whom we give our accountability), then in these boons we exercise ethical standing ourselves—we cannot bestow standing without having it. But where might we gain this? On my view we could gain it only in the way others gain it from us, by someone granting us standing. Thus having ethical standing I consider to be a reciprocal condition relating ethical agents. If I am right above, then, a presumption of normativity finds its social reality only within this reciprocity. (See for example, Blatz 1998.)

¹¹ Consider Christopher Hookway's distinction between two ways of inquiring into the credentials of epistemic norms: First, "Deliberation can be carried out well or poorly; and in general we hope that if our deliberations are carried out well, they will lead to true justified beliefs" (Hookway 2000. 60). Second: "We can examine the normative standards that guide us

when we try to carry out theoretical deliberations and conduct inquiries. These norms will guide us in formulating cognitive goals and selecting methods of deliberation or inquiry to employ in pursuit of them. Unlike the first focus, this one should reveal connections and parallels between norms of practical and of theoretical rationality" (Hookway 2000. 60, 61). This distinction corresponds to what I intend between the evidentiary and virtue approaches to abstract and personal legitimacy, respectively. (See Hookway 2000. 60-62.)

¹² Note that this felt importance has a valence that is positive or negative and that seeds or results from and reinforces the possibility of our articulating our experience of the world in terms in part containing ethical judgments of the options, circumstances or persons we engage in that experience. Thus to engage the world through this experience is to engage it, even if pre-consciously, on terms embodying assessments. And to this extent, I agree with those who like Putnam (2002. 128,129) and McNaughton (1988. 55) and ff.) would speak of ethical or moral perception. But my suggestion here should indicate that this does not clearly commit me to ethical realism or to the existence of moral properties to explain this perception. Also see footnote 18 below.

¹³ And, in what follows I am interested only in the epistemic dimensions of salience in action. See footnote 18, below.

¹⁴ The system of retributive justice—blame or punishment traditionally has been brought in to play this role for those who could have but lack the commitment and do not seek to live by it.

¹⁵ In effect, this is the question lying behind Kant's constructivism—what constraints upon the maxim of an action or that is upon the operation of salience, might allow that salience to be a guide to legitimacy? Rawls's version of Kantian constructivism can be seen in the same way, namely as an attempt to constrain, in this case personal self-interested preference for basic principles of justice so that the salience of patterns of acts due to that self interest might generate a preference for legitimate universal principles of justice. Korsgaard 1996. Sec. 4.2.8. 140, seems involved in a similar project.

¹⁶ The classical account of an explanation of deep disagreements is in Fogelin 1985. More recently I have pursued the understanding and resolution of such disagreements in Blatz 1997. My account there is the basis of the exposition to follow below. For a different account see Gibbard, 1990. Chaps. 10,13.

¹⁷ Thus in deep disagreements, as I understand them, we are confronted not necessarily with an incommensurability of meaning of terms expressing the perspectives, but with some sort of crucial difference in the construction and epistemic commitments of the perspectives involved. For example, as Gibbard might put it, we are here confronted with a difference of norms of warrant, or rationale, or both between the perspectives. (See Gibbard 1990. Chap.11.) Some of these conflicts are those discussed in detail by Lyotard as differends where the statement of one "side" of the matter does not even leave room for the recognition of the claims of the other. (See Lyotard 1988.)

¹⁸ Here and elsewhere, I speak loosely allowing views according to which critical reasoning limits or inhibits or otherwise constrains the given salencies our psychology makes us susceptible to in our particular circumstances. This is the sort of account we see in Korsgaard where impulse is shaped and made ethically presentable or defensible by reason. But must constraint and impulse be separated in an account of salience? Why not speak of salience as an expression of such constraint in the very operations of our responses to the world—why not refuse to separate out impulse from reason's influence in screening, shaping, and then rejecting or affirming the impulse we have in some particular circumstances? Do we see someone physically abusing a child and feel offended by that and moved to take some action to stop it, or is it that we see someone repeatedly striking a child and feel an impulse to resist that only to have reason come in with an affirmative assessment of the defensibility of that feeling and perhaps a sanction of acting on that impulse? Does impulse precede and become limited by reason as Korsgaard and others suggest, or is it the case that the two are felt together and for all practical purposes are inseparable? If they are separate, are there two impulses operating in such cases—the impulse to intervene on behalf of the child and the impulse to follow reason as it directs in the case? Reason might counsel caution if we know enough about the case—suppose the child has just done a horrible thing to someone else and will never be prosecuted or otherwise dealt with beyond the intervention of the parent who has hit the child, or it might counsel rapidity of intervention—perhaps the parent is a drunk and prone to physically abusing those in her or his family. But does that knowledge then enter into the response only to constrain our original impulse attached to the felt importance of the child being struck, and does it do so as part of the impulse to follow reason in the case? So then we see the child struck, feel the impulse to intervene, judge this impulse by reference to whatever information and norms might be relevant and then are moved by our impulse to follow reason to only follow the impulse to intervene in so far as it is an expression of our judgment of what is reasonable or called for in the case on the basis of legitimate reasons? I am tempted to say that these complications will cause the account to fall of its own weight. But that impulse aside, if the agent is committed to follow reason, then to a degree appropriate to that commitment the agent, for all practical purposes, will respond to the situation marking the child's being struck as cruel or abusive and then will move forward to intervene, or will mark the child's being struck as harsh or a failing or sad, but as an act precipitated by the child's behavior and if not fitting at least not a proper occasion for intervention. And the response could have been made without the agent thinking reflectively about any of this. "Look Henrietta/Herb is really laying into little Harry!" Thus in such cases, there is no point in making the separations between impulse, belief, constraint and commitment to constraint. If the agent's account would show that the response was heartfelt and so hewed to the line of her reasons for acting as well as beliefs about the situation (as opposed to being a matter of whimsy or compulsion, or acting from ignorance), and the reasons and beliefs hold up as defensible in an accountability context, then that would be enough for the agent to have acted on an impulse appropriately constrained by reason or to have expressed a salience that is appropriately tied to legitimacy.

Perhaps we might think of cases where *initially* it seems natural to separate the impulse to act and the constraining influence of reason. For example, because of anger, fear or some other dominant emotion, we feel an impulse to act in some way and have to check our action as we think through the case at hand to see what might be the best thing to do—"count to ten before you act." But these seem to be cases where a judgment already has been made and its influence

felt in our impulses—the occasion of anger or fear has been marked as something calling for the response we feel impelled to. And yet, so the description continues, we are just not sure whether we should go ahead because of the operation of *another* reasoned impulse we have acquired, namely, to hesitate and think things through reflectively rather than go with our pre-consciously constrained impulses. These cases show no clear reason to separate impulse from constraint of reason(s). Korsgaard's position is not the only one we might take here, or even a clear one. There is no clear reason to make the separation between reason and impulse constrained by reason, as if we even would know what that means short of a sophisticated (and partially) physiological account.

So there seems to be no point in treating the question before us in the text as a question of the mechanics or dynamics of ethical psychology. Rather, as I treat it in what follows, the question is one of the epistemology of ethics. Perhaps this epistemic turn is the real point of Putnam's criticism of Korsgaard and his discussion of what he calls moral perception. (See Putnam, 2002.128-129.) I am inclined toward a view according to which we experience the world in terms that are expressive of the salencies and associated normative valences we feel in those experiences though I am not at all sympathetic to Putnam's realism as an account of the epistemic grounds these normative experiences provide.

¹⁹ This is the way Gibbard uses the term "tolerance." Of course, some forms of tolerance might be quite personal and very intricate in their mutual accommodations. However, we might also speak of mere tolerance in the way in question here. I shall follow Gibbard in his rather more restricted use of the term. (See Gibbard 1990 Chap.13.)

²⁰ Thus we are led toward such a position as that espoused by deep ecologists, perhaps. (See Naess 1995.)

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