

2.2 Normativity and Practical Judgement¹

1. Norms and Practical Reasoning

Norms are apt for reasoning because they have propositional structure and content; they are practical because they aim to guide action, rather than to describe aspects of the world. These two features hold equally of norms construed sociologically as the norms of specific social groups, and of norms conceived abstractly as principles of action. On either view, norms are indeterminate, while acts are not merely determinate but particular. Consequently norms cannot fully specify which particular act is to be done. Are they then not genuinely action-guiding unless supplemented by practical judgement? Yet accounts of practical judgement are often thin, sometimes seeing it no more than blind, unreasoned ‘picking’ of one rather than another enactment of a norm. However, on another view practical judgement can carry the substantive task of seeking ways of acting that satisfy a plurality of norms, which can be both reasoned and practical.

Discussions of normativity and practical reason often focus on reasons for adopting, or for rejecting, specific norms. This focus is useful for addressing questions about the nature and justification of norms and their division into various modal types (requirements, prohibitions, permissions, etc). And it is also the right focus for raising questions about the nature and justification of ethical norms and their division into various modal and other types (ethical obligations, prohibitions, permissions, recommendations etc). Yet a focus on reasons for adopting specific norms, including for adopting specific ethical norms, does not seem to be enough to guide action. Norms are always indeterminate; acts are always particular and so determinate. A given norm can always be satisfied by a plurality of possible acts. So it seems that there will always be a gap between norm and act, and that while practical reasoning may be able to justify specific norms, it will not by doing so show which particular acts are required. Moves from a specific norm to one or another particular enactment of that norm are generally

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seen not as instances of reasoning, but rather as ‘applications’ of that norm. Yet the use of the term ‘application’ is more obscure than it seems: action that changes the world to fit a norm is quite different from cognition that fits or applies a concept to the way the world is.

This gap between indeterminate norms and their particular enactments is not confined to the domain of morality. It arises for norms that bear on many different aspects of action, including norms thought of as social or legal, grammatical or technical, epistemic or cultural, as well as ethical norms. It arises for norms that prescribe with varying modalities, including those that we see as expressing requirements, obligations, and permissions, and those that we see as formulating recommendations, advice or warnings. In all cases, reasons for adopting a specific norm will not yield reasons for selecting one rather than another act that instantiates that norm.

Can we then think of practical reasoning as justifying acts as well as norms? In order not to prejudge this question I shall rely on an ample—I hope at least non-excluding—view of practical reasoning, once formulated by Phillipa Foot when she suggested that practical reasoning is what you have if you are “good at making the kinds of practical choices that arise for human beings, given the material circumstances of their existence”². This characterisation strikes me as sufficiently ample to avoid begging questions. Being good at making choices is not just a matter of being good at choosing norms. Some people who adopt, indeed seek to live by, admirable norms make a poor fist of enacting them. These are the people whom we think of as having poor judgement. Now it may be that practical reason can offer no guidance to practical judgement, and that reason can reach no further than the justification of norms. But we should not reach this conclusion by adopting too limited a view of practical reason. *A fortiori*, we should not restrict our account of practical reasoning to those aspects of reasoning that lend themselves to quantification, such as those formalised in models of rational choice. Norms may incorporate quantitative requirements or considerations, but need not do so. Whether or not they do so, it is still an open question whether practical reasoning can tell us anything about the move from adopting justifiable norms to enacting those norms.

² Phillipa Foot ‘Morality as a System of Hypothetical Imperatives’ in her *Virtues and Vices*, (Basil Blackwell: Oxford) 1978, 157-73.

That being said, we need to say something preliminary about the way in which a focus on norms can help us to understand how practical reasoning bears on norms, while leaving it open how it is to bear on acts that instantiate those norms. There would be no point in speaking of practical reasoning unless we can see why it offers a basis for saying that some norm is or is not a reason for doing some action of type A. Norms pick out types of action that fall under specific act descriptions: it is their propositional structure and content that makes norms apt for reasoning. However, by the same token the fact that a norm picks out a *type* of action, means that it can offer no more than *a reason for doing some type of action*, and not *a reason for doing a particular act of that type*

Since practical reason seeks to guide action it must be future oriented, rather than directed at particular acts that have not been done and cannot be individuated. We can, of course, formulate definite descriptions of future acts. For example, I can use definite descriptions to specify the types of acts I intend to do at some future time: the walk that I intend to take after lunch, the drink that I hope to enjoy at a certain pub, the meeting I shall arrange with friends at the pub. But this is not to say anything about the particular acts that I will do, beyond stating of what types they will be, and that with some generality. The definite descriptions do no more than specify the types of act that are to be done. Although they individuate the agent by whom and the occasion on which action is to be done, they do not distinguish between the innumerable ways in which the specification of action might be met. It may seem then that the gap between norms (for which reasons may be given) and enactments of those norms (for which no complete reasons can be given) marks a limit of practical reasoning.

2. Taking a Relaxed View of Norms

So the optimistic thought that norms are apt for practical reason because they combine propositional structure and content (making them apt for reasoning) with a capacity to guide action (making them practical) is too quick. This might suggest some problem with reliance on the idea of a norm. The term has a chequered history, and may seem in some ways to be too

narrow and in others too broad to provide a useful focus for practical reasoning. However, I do not think that the difficulties lie specifically in the use of the term *norm*, rather than of other terms for practical propositions that combine propositional structure and content with claims to be action guiding (such as *principle, rule, standard, law*). We should not and we need not be the prisoners of past uses of the term *norm* (particularly now that the term *normative* is used in a much broader way). As I see it, there are reasons for being rather relaxed in our understanding of both terms, and rather self-conscious about their relations to other terms that serve cognate purposes. Indeed the only feature of norms that it seems to me essential to retain is the thought that their use is to guide the way action changes the world rather than to describe the way the world is. A focus on direction of fit suggests four issues that might arise if we relied on traditional, more restrictive understandings of norms. I shall discuss these in turn and suggest that there is nothing particularly problematic about centring discussion of practical reasoning on norms.

1. *Norms and other Directives*. One set of considerations that might lead us to wonder whether norms offer *too narrow* a focus for practical reasoning in that there are other practical uses of propositions, which we would not usually view as norms, which also incorporate act descriptions to which the world is to be fitted and which are taken to guide action. For example, there are *intentions* and *instructions*, and other practical uses of propositions that are sometimes termed *directives*, which we might be reluctant to think of as norms, although they function like norms in that they are intended to guide action rather than to fit the way things are. In each case we think of ways in which action can be shaped to fit one proposition rather than another, and contrast this with uses of non-normative principles, that aim to fit a proposition to the way the world is or will be—including the way certain actions are or will probably be.

This wider range of practical uses of propositions is the focus of Anscombe's classic work *Intention*, and the action guiding aspect of the practical uses of propositions she discusses are vividly encapsulated in her example of the man whose wife complains of his shopping performance saying "Look, it says butter and you have bought margarine", who would get things very wrong if he replied 'What a mistake! We must put that right'—and altered the list to read

‘margarine.’”³ The shopping list is intended to be normative for the shopper’s performance, rather than predictive of it: the mismatch calls for different shopping, not different listing, i.e. for changes in action rather than for changes in theory. In my view the fact that we would not traditionally speak of an instruction or intention to buy butter as a *norm* is not a deep problem. Instructions and intentions function normatively, and there is no reason to be squeamish about thinking of them as norms (in a moment I shall allude to some historical reasons why we may mistakenly think that we should be squeamish).

The same relaxed view of norms will allow us to think of other types of ‘directive’, such as intentions, vows and promises, orders and requests as normative, although they might not traditionally have been called norms. Norms in a traditional, sociological sense of the term are perhaps a subclass of ‘directive’, which not merely guide action but are thought of as having an authority that is not traceable either to individual decisions or commitments (as are intentions, vows and promises), or to second and third person impositions (as are orders, instructions, requests). To put matters vaguely, norms, in the traditional sociological usage of the term, are *impersonal directives*, often seen as backed by social, legal or other authority. Norms in this narrower sense may be ethical, grammatical, social or legal and are often domain specific (*norms of international behaviour, norms of economic rationality*, etc). However, we do no harm in classifying a fuller range of uses of practical propositions as norms, provided that we realise that we have broadened the traditional understanding. What is common to all these, and many other, practical uses of propositions is that they set out standards to which the world should be adjusted, rather than aspects of the way the world is.

2. *Norms and Modality*. A second rather different caveat is that some propositions that function normatively are not accurately characterised as ‘directives’, in that they do not specify *requirements* for the aspects of action for which they are normative. Propositions can have other practical uses. They can be used to formulate advice or warnings, recommendations or guidance, or Kantian ‘counsels of prudence’, none of which strictly speaking *requires* or *directs* action of a specific type. But once again it seems to me that we can take this point lightly and extend the term *norm* to cover this wider range of practical uses of propositions: like requirements and

³ G.E.M. Anscombe, *Intention*, (Blackwell: Oxford), 1957, 57.

prohibitions they function normatively to specify ways in which the world should be changed. Examples of norms that do not require but rather recommend or warn against specific types of action are very common in self-help manuals, good practice guidance, proverbial wisdom and traditions of virtue.

It is, I think, useful to adopt a capacious use of the term *norm*, that covers uses of practical propositions of all sorts, regardless of their source (first, second or third personal, or impersonal), or the modality of their prescription (requirement or prohibition, warning or advice). Taking this elastic view of norms is not only acceptable but advantageous, because it reconnects norms with contemporary understandings of normativity. However, if we accept this broadened understanding of norms two further points follow.

3. *Socially Embedded Norms*. A long tradition in sociology, often reflected in ethical writing, assumes that the crucial feature and advantage of focussing on norms in discussions of practical reasoning is that (unlike ‘abstract’ principles and rules) they are socially embedded or entrenched. There is, of course, a lot of history here. Some strands in that history urge us to think that norms provide a uniquely suitable focus for practical reasoning precisely *because* they are socially embedded, *because* they are the norms of this or that group at this or that time, and that this is what makes them important, practical and motivating. Others have seen the understanding of norms as socially embedded as a great deficiency of a sociological understanding of norm-based practical reasoning. If norms are seen as practical propositions that are entrenched in the lives of some group, the objection runs, they offer a highly problematic focus for practical reasoning, and in particular for ethical reasoning. Some embedded practical propositions may provide poor reasons for action—and the fact that they are embedded adds only the questionable weight of an argument from authority. (We need only think of appeals to entrenched norms of revenge, honour killing or female genital mutilation). By contrast, ‘abstract’ principles of action that at a given time are not well embedded may sometimes offer significant reasons for action.

However, letting go of the traditional, narrower sociological understanding of norms as embedded is not problematic. In fact, I suspect that current usage of the term has long since

distanced norms and normativity in discussions of ethics and practical reason from the older sociological conception of norms as socially embedded, although there are pockets of lingering confusion.

4. *Norms as Motivating.* And there is a fourth point that follows from accepting a relaxed view of norms. An explicit rejection of the older sociological conception of norms as social embedded undermines the psychological corollaries of such views, and requires us to set aside the assumption that norms are invariably motivating. There is no doubt a complex story to be told about the ways in which norms come to be accepted, understood, rejected and modified, and about the emergence of particular norms in the lives of individuals and societies. There is also no doubt a story to be told about what Sabina Lovibond once called ‘the animal precursors of practical reasoning’.⁴ However, if we accept a broader understanding of norms as practical propositions *that may or may not* be embedded in the life of this or that group, we will also have to accept that they have no automatic psychological or motivational role. This may be an advantage. It may be that—as with theoretical cognition—the best account of the development of the emergence and embedding of specific norms in agents or in groups would not be given in terms of the norms. The embedding of norms may be better explained in terms of the entrenching of lower level routines, habits, inhibitions and tendencies. The most psychologically effective way of living up to some norm may not make it an explicit focus of practical reasoning. For example, if I seek to live up to a norm of law-abidingness, I may do best to be conformist and inconspicuous, rather than to check my compliance with the statute book with high frequency. More generally, morally responsible ways of living may not depend heavily on explicitly moral reasoning or motivation, any more than cognitively responsible ways of living need depend on explicit efforts to conform to epistemic norms. As A.N. Whitehead memorably put it

It is a profoundly erroneous truism, repeated by all copy-books and by eminent people when they are making speeches, that we should cultivate the habit of thinking of what we are doing. The precise opposite is the case. Civilization advances by extending the

⁴ Sabina Lovibond, ‘Practical Reason and its Animal Precursors’, *European Journal of Philosophy*, 14: 2006, 262–273. doi: 10.1111/j.1468-0378.2006.00225.x

number of important operations which we can perform without thinking about them. Operations of thought are like cavalry charges in a battle— they are strictly limited in number, they require fresh horses, and must only be made at decisive moments.⁵

Explicit thought about norms is needed when we address questions of justification, but in acting on norms and in thinking about motivation we may often do better to rely on shortcuts, habits and heuristics—or indeed on nudges.⁶

3. Indeterminate Norms, Determinate Acts

With these preliminaries on one side, we can ask with fewer ambiguities how exactly norms—of any sort—are supposed to guide action. This is not the same as asking which norms can be justified, for which contexts—uncontroversially a central task of practical reasoning. Yet the question of whether and how norms (justified or not) can guide action seems to me a more fundamental question than those about the justification of norms, or about the relation of justification to motivation. If we cannot understand *how* norms can shape action, an account of their justification may be of little practical use.

On the surface norms seem defective guides to action. Norms, taken in the relaxed sense I have suggested, are abstract entities with propositional structure and content to which action is to conform. A norm formulates some standard or requirement, some recommendation or permission; action is then supposed to be guided or shaped by that standard, requirement, recommendation or permission. However, while norms are indeterminate, the acts done in living up to them—or in failing to live up to them—have to be determinate in all respects. How then can norms guide action? Isn't the temptation to think of practical matters, including morality, as

⁵ A. N. Whitehead, *An Introduction to Mathematics*, (Williams and Norgate: London), 1911, 45-6; reissued by Google books. For discussion of wide-ranging evidence for this claim see Malcolm Gladwell, *Blink: The Power of Thinking Without Thinking*, (Penguin, Allen Lane: London), 2005.

⁶ Cf. Richard H. Thaler and Cass Sunstein, *Nudge: Improving Decisions about Health, Wealth, and Happiness*, (Yale University Press) 2008.

a matter of being guided by certain norms an illusion, because norms are *never* enough to shape action?

There is some temptation to think that this issue could be avoided if only the important norms were algorithms that provide wholly definite instructions for each context and could *specify exhaustively* what must be done in living up to them. This thought seems to me highly implausible—and particularly implausible for the case of ethically important norms:

An algorithm is a finite procedure, written in a fixed symbolic vocabulary, governed by precise instructions, moving in discrete steps... whose execution requires no insight, cleverness, intuition, intelligence or perspicuity, and that sooner or later comes to an end.⁷

Strictly speaking algorithms are therefore possible only within formal systems, where contexts and moves can be exhaustively specified. We can provide an algorithm for multiplication or for preventing the other player winning at noughts and crosses even if they have the first move. But when we multiply or play noughts and crosses in real life, we need more than algorithms: multiplication can be done ‘in one’s head’ or aloud, or in writing, and the order of the multiplicands can be varied. Noughts and crosses can be played on paper, on a blackboard or on the sand, using varied marks, and various implement to make them and so on. There are no true algorithms for action.

This may seem surprising. Does not Benthamite Utilitarianism ostensibly aspire to provide an algorithm for morality, supposedly allowing us to calculate which act is optimific? The formal structure of utilitarian reasoning may look algorithmic. The instructions for utilitarian calculation tell us to list all options; to reckon the probable outcomes of each; to calculate and sum the expected utilities of these outcomes for all parties; and finally to maximize. In practice, as we all know, utilitarian calculation cannot even approximate the underlying algorithm: we can specify only selected options; we are often unsure about their probable outcomes; our calculation

⁷ David Berlinski, *The Advent of the Algorithm: The Idea that Rules the World*, p xviii, New York: Harcourt Inc. 2000.

of expected utility for anyone (let alone everyone) is pretty gestural. Only the maximising looks even close to algorithmic—however, on reflection we see that it too is not wholly tied down and could be done in various ways.

On second and more cheerful thoughts, it may not be important if norms are not algorithmic. For they can at least formulate constraints on or advice for action, and perhaps all that matters is that we choose *some* act that meets the constraints set by or the advice offered by a norm that we are seek to respect. Yet how are we meant to do this? A standard answer is that it is a matter of judgement. But this is not wholly reassuring. Invoking judgement without explaining how it is to work seems to leave us no clearer about what we need to add to norms if they are to offer practical guidance. Yet perhaps practical reasoning can take us no further.

Writing of theoretical rather than practical judgement, Kant commented that reason could not take us all the way; the same point has repeatedly been made by later writers:

...if one wanted to show generally how one ought to subsume under rules, i.e. distinguish whether something stands under them or not, this could not happen except once again through a rule. But just because this is a rule, it would demand another instruction for the power of judgement, and so it become clear that although the understanding is certainly capable of being instructed and equipped through rules, the power of judgement is a special talent that cannot be taught but only practised. (Kant, *CPR*, A133/B172).⁸

Does an analogous problem arise for the case of practical judgement? Or can we say something about how practical judgement is to go beyond norms and select one rather than another enactment of a norm?

⁸ Here Kant is writing specifically about *subsumptive* or *determinant* judgement, the form of theoretical judgement that assumes a particular item to which concepts are to be applied. See *Kant on Indeterminacy, Interpretation and Judgement*, below xxx-xxx. .

4. Picking and Choosing

One minimalist answer to this problem would be that practical judging is no more than a matter of lighting on *some* act that fits the norm under consideration. For example, if we are aiming to live up to a norm of promise-keeping we need only find *some* act that meets the terms of the promise previously made. Any such act will do, and there are no significant differences between the various acts by which a given promise might be kept. Or if we seek to keep to a norm of parsimony, we need only find *some* way of living that is (adequately) parsimonious. And so on.

On such views, practical judging is simply a matter of *picking* some act that satisfies the relevant norm, and it does not matter which of many differing available congruent acts is chosen. The original of such cases is illustrated by the predicament of Buridan's ass, who could not find any reason for preferring one over another bundle of equidistant hay. Here, some writers want to say, choosing gives way to mere picking. As my hand hovers over an array of equally accessible tubs of margarine, do I really *choose* one rather than another? Or is this a case of mere picking?⁹ This seems an apt enough characterisation of the particular case. There is no reason to think that the choice of one rather than another tub of margarine from a number that are equally accessible, equal in price, and indistinguishable in quality and appearance is more than a matter of picking. It is not a matter of choice because there is (*ex hypothesi*) no basis for choice and so no better reason for choosing one rather than another such tub.

But this example of mere picking is, I think, a limit case which we cannot take as a model for thinking about all cases in which a variety of discernibly different acts would satisfy the constraints set by some norm. Most choosing is not a matter of mere picking. Indeed, some would argue that Buridan's cases are degenerate examples of choosing, precisely for this reason. As Leibniz puts it in *Theodicy*, "In things which are absolutely indifferent there can be no choice because choice must have some reason or principle".¹⁰ Even if we regard mere picking as

⁹ See Edna Ullmann-Margalit and Sydney Morgenbesser 'Picking and Choosing' *Social Research*, 1977, 757- 767, for the distinction. They illustrate picking with the case of selecting among tins of soup, rather than tubs of margarine. I have stuck with margarine, in deference to Anscombe's illustration.

¹⁰ Proposition 1 of Leibniz' 4th letter in *G.W. Leibniz and Samuel Clarke: Correspondence*, ed. Roger Ariew, (Hackett: Indianapolis), 2000.

a limit case of choice, it at least seems plausible that reasoned choice must refer to some norm. Moreover, there is often reason to think that the various ways of meeting the claims of a norm are not equivalent, and that some are better than others. Here it seems that we are not dealing with mere picking, but rather are making some form of reasoned judgement. If so, practical judgement must generally be more than mere picking, and there may be grounds for thinking that in a given situation with given norms, one judgement may be better or worse than others, and more generally that some persons' judgements are usually better or worse than other persons' judgements. This thought returns us to the problem of understanding how practical judgement works.

5. Practical Judgement and Multiple Norms

Is practical judgement an aspect of practical reasoning, or is it only a pompous term for acts of picking, by which we instantiate an indeterminate norm with some determinate act that fits the norm? If so what is it that we admire in acts and persons that we think of as exhibiting good judgement? What makes one way of instantiating a norm an exercise of good judgement and another an exercise of poor judgement?

Much of the literature on ethical judgement offers astonishingly little help here. Often this is because work that purports to be relevant to ethics and practical judgement is in fact about (one type of) theoretical rather than about practical uses of judgement, and in particular about the distinctive problems that arise for theoretical judgement when it is unclear which concepts or standards should be applied. Kant divided theoretical judgement into determinate and reflective judgement, on the basis that

If the universal (the rule, principle, or law) is given, then the judgement which subsumes the particular is *determinant*.... If, however, only the particular is given and the universal has to be found for it, then the judgement is simply *reflective*. (Kant, *CJ*, 5:179)

In both cases theoretical judgement presupposes that a particular aspect of the world is there to be judged. Where the judgement is determinate the task is to see whether a certain concept or

description applies; where it is reflective the task is to see which many possible concepts or descriptions is appropriate. None of this is relevant to practical judgement, where the task is not to apply a concept or description to an act (which does not yet exist) but to enact some norm or principle.

A large amount of writing on ethics (some of it Wittgensteinian in flavour) assumes that practical judgement is form of reflective judgement, and so that it must address some version of the problem of relevant descriptions. For example, Peter Winch, John McDowell, David Wiggins, and at times Bernard Williams, have depicted judgement as the crux of the moral life, yet focus not on practical judgement but on judgement of the context or situation in which action is undertaken. They often describe ethical judgement as a matter of *appreciating* or *appraising* or *attending to* what is *salient* about situations and cases of ethical significance.¹¹ Yet the analogy between practical judgement and reading texts or appreciating situations is unconvincing. When we act we may as a *preliminary* matter have to decide how to view the situation in which we already find ourselves, and in which we seek to act: here reflective judgement may indeed be needed. But even when reflective judging is completed, and we have determined how to view the situation, we will still need to decide what to do: and that is where practical judgement does its work. A focus on reflective judging will not reveal whether or how practical judging works.

If we think about action that conforms to a single norm there seems to be little that we can say about practical judgement. Any act that meets the relevant norm – that satisfies the standard or constraint it sets— seems to be as good as any other, and there is no room for distinguishing better from worse judgement. In this case we are indeed reduced to picking one of many possible acts that enact a practical principle. However, the thought of seeking to meet the constraints of a single norm is highly artificial. We constantly need to act in ways that meet multiple constraints and standards. In buying margarine I need to fit the purchase to the

¹¹ See John McDowell, 'Deliberation and Moral Development' in *Aristotle, Kant and the Stoics*, S. Engstrom and J. Whiting, eds. (Cambridge University Press) 1996, 19-35, esp. 23 and 26. This spectator's view of moral judgement has been well entrenched: see David Wiggins, 'Deliberation and Practical Reason', in his *Needs, Values, Truth: Essays in the Philosophy of Value*, Oxford: Blackwell,

shopping list, and to do so without breaching a large range of other norms that are also relevant to shopping. I will probably take care to meet norms of not stealing, not assaulting the shopkeeper, and not offering counterfeit coin; as well as norms of domestic life, such as taking the purchased margarine home, rather than (for example) feeding it to the pigeons or taking it back to the shelf where it was displayed.

Action on multiple norms can be challenging. If I have to break some bad news in a way that is honest, does not undermine the confidence of the person hearing it, and yet is not so shrouded in euphemism that the message does not get across, then the choice of words, tone and way of communicating may begin to present a real challenge. If I have to bring in a building project on time and on budget and to the standards specified in the project documents, a lot will be demanded. Practical judgement, I suggest, is not something different from acting on norms: rather it comes into play *where and because numerous norms have to be simultaneously taken seriously and observed*. Hence practical judgement can indeed be reasoned, because it is norm guided, and norms are apt for reasoning.

If this account of judgement is correct, it follows that in the end there is always a point at which mere picking has to take place. When all steps have been taken to conform to the full range of norms—ethical and other—that an agent sees as relevant, there will still be a range of possible acts that fit all these requirements. Here reason giving has to stop, and here it is not needed. Picking comes into the picture when *and only when* the differences between the possibilities from which the agent selects are indeed a matter of indifference. It is typically ‘below the level of reason giving’. We do not need to norms or give reasons to pick one rather than the other of two coins of equal value in giving change, or to place a tub of margarine in one rather another equally suitable position in the shopping basket. Typically many of the aspects of action that fall below the level of attention or of intention are *picked* rather than *chosen* for reasons that are formulable in norms.

1987, 215-37; Bernard Williams, ‘Persons, Character and Morality’, in his *Moral Luck*, (Cambridge University Press), 1981, 1-19.

In offering this picture of practical judgement as reasoned I have said nothing about the justificatory arguments that might be given in favour of some norms or against others. I have made no assumptions about the quality of arguments that we may be able to offer in favour of specific norms that are important in specific aspects of life, or about the possibility of offering arguments in favour of wholly general, unrestricted norms of ethical importance. My question has been only whether *if* we had such arguments we would still find that norms were impotent to guide action, and I have argued that we would not provided we had reasons to think that a plurality of norms that are apt for reasoning make their demands, but that we could not expect those norms to guide us ‘all the way down’ to one rather than another particular act.

6. Some Conclusions

Practical judgement, I have argued, is a matter of finding acts (and policies) that meet the constraints of a plurality of norms that specify requirements and recommendations of a variety of types. However, the way that we deploy a plurality of norms is not best thought of as matter of ‘balancing’ one against another. There is no metric for balancing or trading-off different types of norms, and there are no reasons for thinking that high success in living up to one norm will generally compensate for failure to respect another. Great success in keeping a business afloat will not exactly compensate for handling stolen goods, or failing to supply goods that are fit for purpose; great success in surgery will not compensate for performing the wrong operation on a patient (“I’ve done a very good tonsillectomy, although I didn’t take out your grumbling appendix”). Practical judgement is an aspect of practical reasoning because it aims to integrate rather than to prioritise or trade off a plurality of norms. This task can be done better or less well, and there are good reasons for thinking of some people as having good and others poorer judgement. But even those with the most intelligent and careful capacities for practical judgement will in the end have to pick among possible acts between which there is, as we say, nothing to choose. Provided picking is used only for this unavoidable task and not prematurely where respect for a range of norms has to be integrated, there will be no deficiency in practical judgement.

If follows that practical judgement will be at its most demanding when agents seek to respect multiple norms whose requirements are in tension, or even contingently¹² incompatible. Two strategies may be relevant here. The first is a matter of forward planning and avoidance. We know a lot about the circumstances and actions that are likely to create conflicts between the requirements of different norms, and can try to avoid those situations. Those who make excessive or conflicting undertakings (bigamists, fraudsters) will not be able to honour all their commitments. Those who impose excessive or incompatible demands on others are likely to face them with impossible demands, which no exercise of practical judgement can integrate (the worst excesses of the target culture). By contrast, foresight, care and good institutional structures can do a fair amount to avert such problems, by forestalling, reducing and averting contingent conflicts between principles, so easing the tasks of practical judgement.¹³

But individual foresight and social reform have their limits. Often there is no way of acting that satisfies all the norms than an agent would wish to respect, and nothing that could have been foreseen or done to avert the potential for conflict. The most extreme examples are ‘dirty hands’ problems, where institutions, practices and prior action make it hard or impossible for those who have to act to meet all the norms to which they are committed. Even when nothing is so deeply awry, we may often find that the background of institutions and practices, of habits and customs, of virtues and failings, of skills and incompetence, of capabilities and vulnerabilities within which action is performed hinder attempts to live up to multiple principles. In making practical judgements it is often pointless, indeed misleading, to assume these realities away. It may be true that had institutions and practices been better, or had agents made better decisions in the past or been more competent, less conflict would have arisen. But in the world as it is, agents may be unable to avoid a degree of failure, including moral failure, because no amount of thoughtful practical judgement enables them to integrate and live up to all the norms to which they are committed in the situations that actually arise.

¹² If two norms are *intrinsically* incompatible they cannot both offer reasons for action. The defect then lies in claims that both are justified, and is not resolvable by practical judgement aimed at their enactment.

¹³ Cf. Ruth Barcan Marcus’s comment “we ought to conduct our lives and arrange our institutions so as to minimise predicaments of moral conflict”, ‘Moral Dilemmas and Consistency’ *Journal of Philosophy*, 77, (1980), 121-36.

Where realities force hard choices it may simply be impossible for agents to respect all the norms that they seek to respect. The most that they can then do is to recognise the claims of unmet, contingently unmeetable, requirements and recommendations. But the fact that a norm proves contingently unmeetable in some situations will not wholly cancel its claims. Unmeetable norms may leave 'remainders' that call for attitudinal responses such as expressions of regret or remorse, or for more active responses such as apologies, commitments to reform, to compensation, restitution and other forms of making good.¹⁴ The importance of active foresight and institution building, and of an active approach to dealing with remainders in the wake of practical conflict between norms does not show that norms are redundant or useless. It shows that living up to them can be hard and demanding. Taking norms seriously is a matter of working towards practical judgement, expressed in action that seeks to enact requirements and standards and to make good where failure has not been avoided.

¹⁴ See Barbara Herman, 'Performance and Obligation' in her *The Practice of Moral Judgment*, (Harvard University Press), 1993, 159-83.