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Natural Goodness and the Political Form of Human Life

Abstract   *Ethical Naturalism attempts to explain the objective normativity effective in human practices by reference to the relation between a living individual and the life-form it exhibits. This explanation falls short in the case of human beings (1) – not merely because of their essential rationality, but because the idea of normativity implicit in practice is dependent on the form of normativity's being made explicit (2). I argue that this explicit form of normativity's force and claim – the law in general – implies a tension between an explicit norm's claim to absoluteness and the particularity of the situational case it is applied to. This tension may seem to produce an inherent violence corrupting the very idea of objective normativity inherent in the human form of life (3); in fact, it shows that the human form of life is essentially political. That the human form of life is essentially political does not contradict the idea of objective normativity – provided that this objectivity is not derived from a conception of "natural goodness", but rather from the actuality of human practice and its principle, justice (4).*

Keywords: *Natural Goodness, Ethical Naturalism, normativity, form of life, practices, politics, Agamben, Anscombe, Benjamin, Foot.*

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1.1. Human conduct – rational action and thought – exhibits a normative form: To think of an action is to represent it as an instance of a generic process-form. To identify something as an action is to understand it in light of generic action concepts, that is: in light of a description of how such things are typically done, situating it step by step in a wider context of interrelated generic action-forms. Thus, talk of action immediately represents them in a normative mode: Identifying an occurrence *as an action* involves taking a normative stance towards the agent and her activity. This special type of predication – not merely singling out a particular class of "events", but shifting the mode of representing a subject matter in predication[1] – is definitive for action, the corresponding higher-level practices and for *praxis* in general: The logical grammar of "action" implies that actions are represented as falling under an idea of

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1   Anscombe 1963: §19. Cf. Kertscher 2015: 102, Thompson 2011: 209. This difference not in subject but in mode suggests that "actions" (what the agent is doing) are not to be understood as simply a sub-class of events. What one is doing only appears as a mere event when it is represented as what *was done* (of what *happened*). Not only are actions *sui generis*; it stands to reason that with respect to action the category of "event" is not fundamental but derived by abstracting from the grammatical gap between human action and mere happenings that befall an agent from without.

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goodness[2]; that is why Elizabeth Anscombe says that "[a]ll human action is moral action. It is either good or bad" (Anscombe 2005: 209). This "grammatical remark" elucidates the concept "action" by pointing to the form of predicative thought in which something like action can figure at all; and it has become a core argument in what might well be the most promising and exciting strand of contemporary metaethics – for it shows how human conduct is formally subject to a normativity which, rather than merely supplementing an otherwise "neutral" description of events, reveals the very nature of the issue[3]. At the same time, the remark explains the objectivity – that is: the actual und thus unquestionable force – of the norms governing action. They are implicitly actualized in the very act that exemplifies them; the formal goodness of a singular action hence lies in its relative accordance to *its* norm. Since every action is situated in the wider context of inferentially and practically related generic action-forms or practices, each action's quality of "goodness" is derived from the most general form of *praxis*: the way we as humans generally act and think in concordance. It is the actuality of human *praxis* in general, then, that explains (by exemplification through each and every individual act) at once the quasi-natural source *and* the contingency, the objective force *and* the natural unintelligibility of normativity.[4] Let's call this generic form of *praxis* the human life-form.[5]

1.2. This formal (or "grammatical") account however lacks explanation of what characterises the general form of *praxis* substantially – for knowing the formal make-up of a possible answer to the question "what is good action" does not give guidance in the miniscule of quotidian life. Metaethical naturalists like Philippa Foot attempt to show, however, that

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2   Cf. Geach 1956: 33f. Note that Geach does not claim that attributive uses of „good" and „bad" are enforced by their surface grammar; he merely notes a shift in function whenever they relate attributively to the concept „human" in the sense of „agent" and pertinent verb classes; cf. Vendler 1963: 246.
3   Anscombe stresses that there are of course "neutral" action description – but she points out that such "neutral" descriptions are derivative abstractions: descriptions of human actions in which it is permissible to disregard human action's normative form because they do not report what an agent *is doing,* but rather the fact *what has been done;* cf. Anscombe 2005: 214. See also Anscombe's analogous treatment of the idea of „brute facts" (Anscombe 1981a).
4   Cf. Anscombe 1981b: 100, 103.
5   This is the way Wittgenstein talks of "forms of life", for example in explaining what kind of non-negotiable "agreement" characterises mastery of (the rules of) language: "What is true or false is what human beings say; and it is in their language that human beings agree. This is agreement not in opinions, but rather in form of life" (Wittgenstein 2009: §241). This interpretation is outlined in Kertscher/Müller 2015: §3.

the formal account *is* already substantive enough: understanding human action, they argue, equals (at least formally) understanding the activity of living individuals, or of *life* in general[6]. Judgements about the activity of living organisms exhibit an irreducible normative form, in that they establish a relation between reference to an individual and reference to the individual's species. Identifying an organism – a canary, say – implies representing it as belonging to a species which may be typically characterised by generic, timeless judgements of the form "The *S* is/ does/ has *F*": "The canary feeds in flocks". Michael Thompson calls such judgements "natural-historical judgements", and the sentences employed "Aristotelian categoricals"[7]. Compiled in a system of natural-historical judgements, they articulate what it is for something *überhaupt* to be an *S*: the *life-form* of *S*s. Since they do so *generically*, they imply a normative standard effective in singular judgements. Observing, for example, that "this canary is a solitary feeder" inferentially yields that "this canary is somehow peculiar", i.e. not conforming to the normative standard its species-description implies. And since feeding in flocks has a function for the typical canary's well-being (an individual is less likely to fall prey to predators), the solitary canary is not only peculiar, but *defective* or *bad*: it lacks something *the* (generically characterised) *canary* requires for its well-being and flourishing.[8] This idea of "natural goodness" – Foot argues – pertains to human beings as well as canaries: Describing the way humans live in general yields an idea of what it is for human beings to live according to their species-form; and since – drawing from Aristotle's argument on the proper function (*ergon*) of man – "the function of man is an activity of soul which follows or implies reason" (that is: which conforms, albeit in a higher or lesser degree, to a standard of reason), it follows that for humans being a good example of one's species is realizing this capacity to its fullest potential – "human good turns out to be activity of soul exhibiting

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6   Cf. Foot 2001: Ch. 3.
7   Cf. Thompson 2008: Ch. I,4.
8   Note how the generality of such characterisations does not allow for inductive correction and thus need not conform to statistical accuracy. A "natural-historical judgment [i.e., a judgment about the characteristics of a life-form] may be true though individuals falling under both the subject and predicate concepts are as rare as one likes, statistically speaking" (Thompson 2008: 68). Even if our solitary canary were to do just fine on his own, it would still aberrate from what canaries *normally* do; and even if it were to belong to a flock of misornithic canaries, or was the last canary on the face of the earth, it (and all its hypothetical flock-mates) would still count as "defective" canaries. The logical grammar of such judgements precedes their empirical substantiation; this is why adequacy of species-descriptions in biological taxonomy cannot be ensured by means of observation alone, but necessarily involves models of evolution and speculative prognosis; cf. Hoffmann 2014: ch. 6.

virtue" (Aristotle 2009 [Eth. nic.]: 1098a7-8, 16-17). The capacity to pursue a rational life, then, characterises human beings in general; and this provides a standard of goodness for human activity which, on the one hand, relies on the generic description of what is necessary for the flourishing of human beings[9], and on the other hand allows for the ethical evaluation of human action: For, since human action is an actualization of the capacity of reason, considerations about what is good for human flourishing in general provide reasons for (the evaluation of) individual action. Responsiveness to reasons or lack thereof in turn provides grounds for the evaluation of an individual's virtuous character – of the way she exemplifies her species.

1.3. This account of "natural goodness" gives an explanation of the normativity of human practice in general, or of the human form of life, by reference to the kind of organism engaged in it. This kind of organism is determined *per genus proximum et differentia specifica*: First the grammar of evaluating living beings in general, and then the specifics for evaluating a particular species ("rational animals") are spelled out. This methodology underlies Peter Geach's famous dictum that "[m]en need virtues as bees need stings" (Geach 1977: 17): For both men and beasts employment of some trait is necessary for individual well-being; they differ in the fact that in the case of humans an additional capacity for reason is involved. But such an "additive account" of human rationality[10] and, subsequently, of the force and validity of human *praxis*' normativity, runs into serious difficulties, for the capacity for reason not only involves *responsiveness* to reasons but also the ability to weigh and evaluate reasons, that is, to question the validity and adequacy of their claims – reason's essential *reflexivity*. In fact, both are *one* faculty: the ability to understand reasons, to be open to their claim, *is* the ability to incessantly question their validity and ask for justification. The same reflexivity holds for practical *thought* – that is: thought which is active, thought *in* action or *as* action. It does not suffice to model the cause of an action after the Humean idea of an *efficient* cause (a desire) which is merely transmitted by thought; instead, practical thought is the *causa formalis* of human action.[11] But then, acting for reasons cannot be judged against "natural norms" in the same way our canary's behaviour is judged against

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9   Cf. Foot 2001: 43.
10   Cf. Boyle, internet.
11   Cf. Thompson 2008: 95f., Rödl 2007: 42ff.

the standards of its life-form. For the capacity for rational thought and action *is* a natural trait of human beings – yet its exercise conforms to its own norms, not those of the life-form whose distinguishing feature it is: "Reason does not just open our eyes to our nature, as members of the animal species we belong to; it also enables and even obliges us to step back from it, in a way that puts its bearing on our practical problems into question" (McDowell 1998, 173). One might well say that since it is natural that individuals of the species *homo sapiens sapiens* can acquire a capacity for reason, it would – in the Footian sense of the word – indeed be bad of an individual to "behave like an animal", to act without rhyme or reason. If an agent would so behave, we would rightly judge her to behave *inhumane* – that is, in a way which seems to call into question her belonging to mankind altogether. But of course, this is mere semblance; our horror in the face of such acts *shows* that we do *not* regard such an individual as falling under a different species concept (wondering how we ever came to see her as a fellow human being), but recognize her as a member of our humane world who seriously lacks in character. We understand immediately that, *of course,* she *acted for reasons* – and are astonished by the twisted, distorted form her reasoning assumed.[12] But the normative force backing up our astonishment does not spring from a violation of the natural standards of our common species. It springs from the way *in which this natural standard is satisfied*; for the evildoer *does* act from reasons; she *has,* as John McDowell puts it, "acquired a second nature with that [rational] shape, [her] eyes were opened to real reasons for acting" (McDowell 1998, 192).

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1.4. The upshot of McDowell's argument is that human beings do not simply *fall under their life-form* in the way canaries do; they are not subject to an objective normativity which, as it were, dictates their needs – at least not with regards to morals. Human beings fall under their life-form in the mode of *bringing themselves under it*.[13] This shift in exhibiting one's life-form by actively debating *what counts* as a good realization of our

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12   This is, I take it, the long and short of Hannah Arendt's much disputed analysis of the "banality of evil": That evil *is*, in fact, a shape of practical reasoning, and *as such* poses a *formal* problem for moral understanding that cannot be solved by merely casting the evildoer from the realm of rational agents; cf. Arendt 1963: Preface; Gaita 2004: 6, 313.
13   McDowell himself conceives of this difference in exhibiting one's life-form rather dualistically: He understands man as an animal whose nature enables it to acquire a "second nature", to become a member of human practices and navigate the "space of reasons". Cf. Stahl 2014, Halbig 2006: §2.

"species" neutralises the thrust of the ethical naturalist's argument: for "that what members of one's species need is not guaranteed to appeal to practical reason" (McDowell 1998, 192) – not only because practical reason is understood as *sui generis vis-à-vis* the natural world and might well (judged from a "side-ways on"-perspective: *falsely*) neglect an individual's specific needs, but because *it is not clear in advance what counts as a need, or what counts as flourishing*. In bringing themselves under their life-form, human beings constantly evaluate, and so re-form and transform the boundaries and the substantive cornerstones of this, their life-form[14]. Note that nothing of what I said encourages the idea of human beings somehow "overcoming" their nature, conquering mortality, as a species renouncing nourishment or other such follies. That "human beings fall under their life-form in the manner of bringing themselves under it" is a *grammatical* remark: Because of the way in which human beings fall under the concept which expresses their life-form, the term "species" in reference to humans serves another function[15]: It does not merely denote a set of general judgements about a form of life, but a mode of actively relating *to* this life-form description. Human beings, in a popular Marxian phrase, "make their own history"[16]. This is *the same* grammatical remark; understanding the human form of life differs essentially from understanding forms of life in general, for the human life-form – the general concept of what it is to lead a human life – is an object of the activity of the beings that exemplify this form. Hence, the "first historical act of these individuals [sc. human beings] by which they distinguish themselves from animals is not that they think but that they begin to produce their own means of living" (Marx/Engels 1978: 20): Human history proper is separated from the mere natural history of

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14   "Hunger is hunger, but hunger that satisfies itself by cooked flesh eaten with forks and knives is a hunger different from that which devours raw flesh" (Marx 1983: 27).
15   This is not to deny that, of course, human beings are animals, more precisely: higher mammals, related to the great apes, etc. But these judgements make up the natural history of man *as an animal*, leaving aside his essential rationality (and indeed, that man possesses the capacity for certain forms of information processing might well figure in a biology course book; what exactly characterises the form of our thought, however, belongs to a different strata – a hermeneutics of man's second nature). I leave aside attempts to rephrase ethical naturalism in this vain, i.e. as a hermeneutics of the human life-form. I believe that some of these attempts bear some resemblance to the account I outline here; cf. Hoffmann 2015: §9ff. On the whole, however, the idea that it belongs to man *as a biological species* to develop a hermeneutic of its natural history falls prey to the objections I gave.
16   "Men make their own history, but they do not make it as they please; they do not make it under self-selected circumstances, but under circumstances existing already, given and transmitted from the past" (Marx 1960: 115).

animals by a categorical gap. We might accentuate this (logical or grammatical) gap by eschewing the attribute "natural" in talk of the "natural history" of humans. Here, its function hearkens back to uses of "natural" meaning a thing's *essence* (of what it is for something to be what it is, to exhibit its own *form*), whereas its function in ethical naturalism is to locate living beings in the wider context of the "natural order" as it has been understood since the modern period.[17] Thus, man's *essential* history is different from the *natural* history of the species *homo sapiens sapiens* – not in that human beings were somehow "more" than mere animals[18], but in that human beings fall under their species concept or life-form in a radically different way. For human beings, their life-form essentially is an *object of their activity*. Normativity, customs, language and law – the institutions that constitute the central ideas of vital descriptions of human life – are not naturally pre-given; they are the "means of life" human beings produce *in leading their lives*[19]. That does not contradict the fact that for each and every individual the normative institutions are ineluctable and objectively given. We find ourselves subject to the normative claims our form of life has on us – but, again, not in the way that animals are subjected to their life-form but in the way that human action, practical thought, essentially involves recognition of these claims *and* establishing an inquiring distance to them, recognition of their force *and* the desire to understand them as being founded on reasons.

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2.1. If this double stance towards one's own life-form is what characterises the way "natural goodness" in the sense of "essential goodness" plays an irreducible part in human action – falling under one's life-form in the mode of *leading a live*[20] –, then an account of man's "natural history"

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17   Cf. Kambartel 1989: 75.
18   Cf. Boyle (internet). Such an "additive account" of human rationality typically gives rise to rationalist accounts underlining the *sui generis* nature of reason. On such accounts, too, ethical naturalism is unsatisfying; however, the proposed remedy typically involves a dualist explanation of reason's autonomy as logically independent from the lives lived by human beings, thus obscuring the grammatical gap in the function of the term "species" from the opposite direction; cf. Heinrichs 2015: §5 and Halbig 2015: §6.
19   Matthias Haase stresses this point in his critique of ethical naturalism; however, he interprets the term "means of life" as referring only to food and nourishment, and thus falls short of the substantial critique of naive materialism he intends. Cf. Haase 2015: 297.
20   This is, again, not so say that this transformation of their way of living is something that could be conceived of as brought about by intentional individual acts. "Transforming one's way of living" is not an *action*; it is *the mode*, the *form* of human action in general.

cannot yield the force and hardness of logical necessity in the evaluation of action that ethical naturalism hopes for. For virtually every intelligible description of human *praxis* in general serves the function of exemplifying this mode of falling under a life-form; even practices commonly considered evil or detrimental are valid instances of the form of human life, expressing how action is subject to the normativity of *praxis* in general. Note how this does not entail historicist relativism and subsequent scepticism – as if the normativity in question only pertained to "praxis as we know it", or "western civilization", all of which may have been different in bygone times and change again in the future. It merely refutes the naturalist's claim by commenting on the grammar of "human life-form" and emphasizing an essential tension between the thrust of the account of man's "natural [sc. *essential*] history", the normative force its institutions yield on the one hand, and the fact that the rational questioning of precisely that thrust on the other hand belongs to this very history. One might say provocatively that for humans the question "what it is to count as human" is at the same time always already categorically answered *and* – in its substantive minutiae – essentially open[21]. That is why understanding the *form* of human life, its essential rationality manifested first and foremost in action, does not immediately produce the kinds of natural necessities standing in for practical reasons in the naturalist's accounts. If there is necessity it results from the historical form of human thought and sensibility[22]; and this implies that it requires rational acknowledgement by the very individuals whose activity it purports to govern. To say what is sound in the human being is, if it is meant to serve as an argument for the necessity of certain virtues, rather a statement about the history of human practice; if its purpose is to elucidate human form, it does so merely in virtue of the grammar it exemplifies, i.e. the fact that it is distinctive of the human form of life to involve reference to reasons for action, that in categorical descriptions of human activity there is, inevitably, normativity at work[23]. The idea of human form evolves around

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21   I take it that although there is a strong "family resemblance" between this idea and the philosophical anthropology of Helmuth Plessner, both accounts are still distinguished by a grave difference: On Plessner's account the essential "openness" of human beings is to be understood not as a conceptual provocation but as a positive feature. In contrast, the account presented here takes this "openness" as a reminder of a conceptual *tension* – as a problem, not its sublation. The outcome, however, is similar: The question what constitutes a human way of life remains essentially a practical and political question. For a reading of Plessner along these lines cf. Schürmann 2014: ch. 5.
22   Cf. Marx 1968: 542.
23   That is why Wittgenstein characterises his grammatical remarks as remarks on "the natural history of man", only to add that "we can also invent fictitious natural

the idea of acting for reasons, and this idea implies a formal standard of goodness[24]. Yet the question of wherein that goodness lies *substantively* cannot be answered by reference to a *natural*-historical species-description; it is rather "a labor of the entire history of the world down to the present" (Marx 1968: 542).

This might seem to threaten the idea of justified normativity – of *Justice* – altogether. Now, I take it that there *is* of course something like a formal idea of justice implied in thinking of something as a fellow human being, in recognizing someone as a person, and in thinking of oneself first-personally immediately sublating the ostensive difference between thinking of oneself and thinking of another[25]. Since justice is not merely a virtue amongst others "but the whole of virtue", that is: the mode in which *virtue in general* is completed by *addressing another*[26] – it follows that the very idea of communal *praxis* is a *political* idea. Yet this conviction is seriously endangered once the human life-form – and let's remember it includes *refering to*, and *explicating* this very form – is understood as reflexive in the manner outlined. If a substantive account of the human form of life is to be formally understood as being *a product* of the mode of individual activity it categorically defines, of its history and self-evolution, then potential conflict enters into the reassuring idea of "falling under one's life-form by bringing oneself under it".

2.2. Michael Thompson argues that the form of human life is known non-observationally: Engaging in rational activity, thinking the thought that "I think this thought", is immediately knowing oneself for what one is doing – exemplifying self-conscious activity. Hence, "the concept *human* is a pure concept of the understanding devoid of even the least empirical accretion" (2004: 69); it is a *formal* concept that explicates a categorical manner of being. This manner of being is, methodologically, not just

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history for our purposes" (Wittgenstein 2009: §365). His point is that whatever intelligible description of human life is given – fictitious or otherwise –, it necessarily exemplifies the form of a (possible) description of human life; it serves as a reminder of the inevitability of the form of thought which is epitomized in such a description's intelligibility.

24   Cf. Anscombe 2005: 214: "To say that 'human action' and 'moral action (sc. of a human being)' are equivalent is to say that all human action *in concreto* is either good or bad *simpliciter*. [...] The term 'moral' adds no sense to the phrase, because we are talking about human actions, and the 'moral goodness' of an action is nothing but its goodness as a human action. I mean: the goodness with which it is a good action".
25   Cf. Rödl 2007: Ch. 6; Thompson 2004: 38of.
26   Aristotle 2009 [Eth. nic.]: 1130a8-14; Benjamin 1995: 41.

another token of the activity type "living", but rather the starting point for an elucidation – by noting the relative differences to this mode of being active – of *all* forms of life. Human life is, says Thompson, "the first life form concept"[27]: It is the form of living in light of which other modes of being are, by virtue of their differences and shortcomings, distinguished[28]. Practical-rational self-relation – the inherent normativity of practical reasoning which is definitive of the human form of activity – exemplifies the grammar of thoughts in which individuals are in general represented as exhibiting their life-form. Its logical form is thus prior to the distinction of a plurality of different life-forms, and prior to abstractly subsuming such multiple forms (including the human form!) under the common header of a general "representation of life". The core argument of ethical naturalism, as it were, is based on an inversion of this methodological order: The idea of "natural goodness" takes the most abstract common denominator of different usages of "living", being-in-activity which has its cause in itself, as a base for the idea of a life-form's goodness. Action is then understood as a kind of activity, namely: activity caused by knowledge of itself, which is nonetheless *mutatis mutandis* subject to the normativity of "natural goodness" in general. Hence, in the naturalist account the fact that something belongs to its species is understood as a reason-giver that trumps the reflexivity of reason. As John Hacker-Wright writes, we "cannot know ourselves as having a capacity for agency without having been motivated to act on some reason. It follows that nobody can be neutral toward such a capacity […]. All agents must view the capacity as normal for human beings and avow this interpretation as their own. This makes the standard applied to each agent as a being for whom agency is normal necessarily more than a mere theoretical fact

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27   Analogously, practical knowledge as explained by Anscombe, might be called "the first concept of knowledge": "[I]t is the agent's knowledge of what he is doing that gives the descriptions under which what is going on is the execution of an intention. […] [W]e can say that where (*a*) the description of an event is of a type to be formally the description of an executed intention (*b*) the event is actually the execution of an intention (by our criteria) then the account given by Aquinas of the nature of practical knowledge holds: Practical knowledge is 'the cause of what it understands', unlike 'speculative' knowledge, which 'is derived from the objects known'" (Anscombe 1963: 87).
28   This does not imply a substantive stance towards man's place in something like a ranked order of life; it merely states that the human form of life we are non-observationally acquainted with (by virtue of exhibiting it) is the methodological starting point, in the same way that "[h]uman anatomy contains a key to the anatomy of the ape. The intimations of higher development among the subordinate animal species […] can be understood only after the higher development is already known" (Marx 1983: 39). Only in relation to this ineluctable starting point is the meaning of talk of "sub-rational" beings, or oppositely the idea of a "divine intellect" (which is essentially an abstractive concept of human intellect barring some of its characteristics), meaningful.

among others" (Hacker-Wright 2012: 21): it is a *practical* fact whose normative force cannot be avoided lest what is thought to be good for humans as a species is violated. But though we might have a pretty good notion of what that might include, we lack an ultimate justification for it as soon as we take the idea seriously that the mode of human's falling under their life-form is *bringing themselves* under it[29]. This reveals a subtle difference in the grammar of the judgements that make up life-form descriptions of living beings in general and of human beings in particular: in the case of human beings the "Aristotelian categoricals"[30] of life-form descriptions cannot be thought to unfold their normative force immediately and implicitly, just in virtue of identifying something as falling under them. Since their claim must be debatable if they are to count as reasons for action – first and foremost: of our actions towards each other –, it is necessary that they be translatable into *explicit* claims, into rules, laws and commandments. If they are to figure in the rational practice of giving and taking reasons, they cannot retain their ostensive status as mere declarations of fact. Instead, they assume the enigmatic character of a "Categorical Declarative" (Cavell 1969: 29): Declarations whose factive intention is only intelligible *via* translation into *explicit* claims and demands, hence obfuscating the immediate necessity they purport to convey. To talk of a norm as *implicitly* governing the individuals falling under it necessitates to address such norms in the peculiar mode of *intentio obliqua*: as *explicit* norms addressed with the reminder that, paradoxically, they *ought* to be understood as *implicit*. To say that a norm is grounded in a form of life is, inevitably, to *state* this foundation as factive – yet to state it in a linguistic form that immediately calls this very claim into question. Consider, by way of analogy, Wittgenstein's treatment of the unquestionable practical certainty that orients action, preceding, as it were, explicit considerations whether one in fact "knows" what one must have been certain of (because one *has acted* in a certain way)[31]: here, too, the immediacy of certainty is difficult to even articulate. To address it as implicit, immediate "knowledge" risks either asserting an infallible knowledge, thus blatantly violating the concept of "knowledge", or making up just a "very special kind" of knowledge, hence missing precisely the point the term "practical certainty" intended. Yet still we cannot refrain from addressing certainty in this systematically misleading way; for it is defined by its immediacy *in*

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29 Michael Thompson therefore talks of an essential "groundlessness" of the human life-form and likens the status of its normativity to the Kantian notion of the Sittengesetz's reality being a "Faktum der Vernunft"; Thompson (internet): 7.
30 Cf. Foot 2001: 29.
31 Cf. Wittgenstein 1984: §510.

actu which can only come into view *ex post*, at the price of having forgone its unquestionable orienting force. So it is with the "essential goodness" of the human life-form: The normative force our life-form exerts on us in virtue of our implicit practical compliance looses its hold through the fact that it needs to be made comprehensible and hence explicit.

2.3. When Elizabeth Anscombe programmatically outlined the idea of ethical naturalism in her seminal essay on "Modern moral philosophy", she took issue with the "law conception of ethics", arguing that it failed to account for the law's objectivity: Since it must be modelled after an idea of divine law, its normative force as a motivational reason for action remains bound to the plight to obey it. But then the claim of the law remains relative to another law securing the applicability of the law in the first place; a variant of the rule-following problem ensues[32]. Anscombe follows Wittgenstein in arguing that the appearance of a paradox in the idea of "following a rule" is produced by a mistaken notion of a rule's status – that it is imagined along the lines of an explicit rule or law[33]. Understanding, however, that rule-following is a "custom", "a practice", an "institution" (Wittgenstein 2009: §§199, 202), is understanding that one does not partake in such a practice in virtue of *knowing* the rules but through practical familiarisation and initiation into the custom. The *analogon* that likens ethical life to linguistic rule-following is the mode in which the normative force governing both ethical life and linguistic practice is known non-observationally: it is grounded in being a member of a linguistic community, or in being the kind of creature one is, respectively.[34] However, this very analogy reveals that the purported indubitability of reference to one's practice as well as to one's life-form does not hold: For although it shows that flat-out sceptical refusal of a normative claim towards our (ethical as well as linguistic) behaviour is indeed incomprehensible, the analogy also shows that exhibiting human form, just like membership in a practice, requires a reflective stance towards what the practice demands. This stance subverts the necessity of conformity that the idea of an *implicit* claim implies. Thus, normativity *for humans* requires being made explicit so that its content can serve as reasons in action; being made explicit *as* norms, rules and claims, however, entails

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32   Cf. Anscombe 1981c: 30, 32.
33   Cf. Wittgenstein 2009: §201 and McDowell 2009: 104f., 109; cf. also Kertscher/ Müller 2014.
34   Cf. Anscombe 1981c: 44.

need for justification – and thus in the case of humans, reference to "the kind of creature one is" *alone* cannot provide ultimate reasons for action, for it is itself in need of explication and justification.

With this shift in perspective the problem of the "law-conception" of ethics comes back with interest: for it is, despite its apparent insufficiency, not simply an erroneous conception to be done away with but rather a methodologically ineluctable transient point which requires adequate treatment. It necessarily comes up in deliberating the nature of normativity in human practices, because it reminds us of the way in which a normative claim's actuality and validity needs to be related back to the self-constituting human practice from whence it stems. Hence the seeming threat to the idea of normative objectivity altogether: Consider how at the root of the conception of categorical life-form descriptions lies the assumption that the adequacy of such descriptions is in principle given in the way that beings fall under them; it is the life-form description which makes reference to an individual itself possible in the first place. I argued that this categorical relation between an individual and its generic form is – without loosing its categorical pertinence – essentially related back to the history and development of the human form of life, a product of the perpetual reproduction of the human form in general (the generic way in which human beings not merely *live* but *lead a life*). Thus its adequacy is based not on "empirical fact", nor on metaphysical certainties, but on basic distinctions *made* in human practices. But now the normative force realized in the human way of life seems originate from the force with which these distinctions are upheld. The groundlessness of the human life-form suggests violence at its very root: a collapse of normative force's mere facticity and its justificatory substantiation.

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3.1. The problem of a naturalist account of the normativity effective in our human form of life, then, is that it does not take the grammar of normativity's explicit articulation serious enough. In getting rid of the "law conception" of normativity altogether it also levels an essential feature of the life-form it is most urgently interested in: the reflexive articulation of human activity's form. Yet it was precisely the grammar of this articulation that precipitated the problems ethical naturalism wanted to remedy: the problem of normativity's origin, and the problem of its recursiveness, i.e. the paradox of rule-following. Let's call the form in which norms, rules or conventions are explicated *as* posited demands, claims or commands *the form of law* in general (die "Rechtsform"); for

every explication of normativity takes its cues and words from the practice of explicit normative reasoning and normative judgement, that is: from the sphere of the law. The problem of objectivity at the core of ethical naturalism is now rephrased and explicated as the problem of the *force of law*'s origin.

In his 1921 essay on the "Critique of violence"[35] Walter Benjamin rephrases the very same conceptual problem by stating that the "task of a critique of violence can be summarized as that of expounding its relation to law and justice. For a cause, however effective, becomes an instance of violence, in the precise sense of the word, only when it bears on relations of ethical life [sittliche Verhältnisse]", and the "the sphere of these relations [dieser Verhältnisse] is denoted by the concepts of law and justice" (Benjamin 1986: 277; 1991: II 179)[36]. In the absence of a satisfying ultimate justification of normative objectivity, the argument goes, every instance of a normative claim's actuality in human practice can be seen as bearing down on human activity from without; in fact, being understandable as originating somehow "outside" or "beyond" human practice is the hallmark of such a claim's objectivity, for it flat-out contradicts the idea of subjectively originating from individual arbitrariness or convention. Benjamin introduces the term "violence" as an index of this connection. Understanding normative (ethical) objectivity *is* to understand violence as the force of normativity and its relation to justice; for this relation *is* what defines the human form of life – the form of human *praxis* in general. Benjamin's question concerns the foundation of this relation: how to account for the force of "law" – of normativity in general – in a way that elucidates *both* the "violent" character of the law's efficiency as originating "beyond", *and* its justification by an idea of human justice. His approach sets out from the conceptual fact that normative practices by virtue of their inherent idea of justice's claim to validity strive for universalization, for "absoluteness". They strive, as Benjamin puts it, for the transformation of "natural ends" (i.e. individual ends of intentional action) into "legal ends", i.e. ends which are justified in virtue of occupying a place in the normative space of reason (Benjamin 1991: II 182). Therefore, "law" defines human practice; and precisely its boundlessness

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35   Benjamin uses the term „critique" in its Kantian sense: as an analytical account of the merits and limits of conceptions of violence in ethical life. This has lead to considerable explanatory labour in readings which, misleadingly, tried to interpret Benjamin's argument as *merely* a rejection of violence; cf. e.g. Honneth 2007: 121.
36   I quote Benjamin's essay in a modified version of Edmund Jephcott's translation; the second abbreviation refers to the volume and page in the Suhrkamp edition of Benjamin's *Collected Writings* (Benjamin 1991).

makes its inherent violence so menacing. Both the tradition of natural law and legal positivism, Benjamin argues, fail to account for this danger, for they conceive of explicit norms as a "means" to the "end" of "justice"[37]. Conceptions of natural law simply posit certain substantive ends as "naturally justified", hence failing to account for "the indeterminacy of means" (Benjamin 1986: 279; 1991: II 181): the fact that just ends do not automatically entail just means. Conversely, legal positivism refrains from formulating substantive ends at all, thereby reducing the objective claim ("the absoluteness of" justice as an "end") to mere accordance with legal procedure (ibid.)[38]. Within an explanatory framework organized after this model of means and ends alone, Benjamin reasons, law's violence cannot be understood as "just". A gap remains between normativity's claim for justice and its bearing on ethical life "from without".

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3.2. One might suspect that ethical naturalism's attempt to bridge that gap fails because it, too, follows the means-end-model: To give a functional explanation of justice as necessary for social well-being seems to take normativity as a means to the just end of human flourishing.[39] Of course, the naturalist claim exceeds simple functionalism, for the function that "goodness" serves should not be understood as prescribed from without. The "goodness" in question is understood as a vital function of human organisms, hence the gap I outlined seems already to be bridged by counting responsiveness for reasons as part of this vital function.[40] But the gap between normativity's essential claim to justice and its objectivity results not from lack of connection between normativity and the human agent's mode of being. It results from the logical, or grammatical form of its conceptual representation in thought: A concept of implicit normative force grounded in membership in the species – a concept that, on the other hand, can only be made intelligible in an explication that denies the very necessity it aimed to express. For *the law* in general is confronted with a problem of applicability, namely in two directions of

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37   This is their "common basic dogma: just ends can be attained by justified means, justified means used for just ends" (Benjamin 1986: 278).
38   This double critique of dominant foundations of "law" bears some resemblance to Carl Schmitt's contemporary argument; indeed, the nature of Benjamin's relation to Schmitt has been the subject of much debate (cf. e.g. Agamben 2005: 53ff., Honneth 2007: 117ff., Heil 1996). I argue that these apparent similarities are simply due to a common point of departure – how to account for normativity's objectivity; they do not affect the fundamental difference in their conceptions.
39   Cf. e.g. Anscombe 1981d: 155.
40   Cf. Lott 2015: 83.

fit of a norm towards its subject: first, regarding *which* individuals are subject to the norm – who is rightly addressed by its claim, what counts as a case falling under the norm; and second, regarding the authority and justification with which these distinctions are made. Carl Schmitt interprets this problem of applicability as the essential formal feature of normativity made explicit: Every normative judgement, he argues, implies a decision, because "the juristic deduction is not traceable in the last detail to its premises and because the circumstance that requires a decision remains an independently determining moment" (Schmitt 2005: 30). A norm does not govern its own application, if not for the price of a regress of norms; thus, normative judgement is by its very nature ultimately groundless. This groundlessness is "rooted in the character of the normative and is derived from the necessity of judging a concrete fact concretely even though what is given as a standard for the judgment is only a legal principle in its general universality" (Schmitt 2005: 31). If this is correct, then there is indeed a violent tension inherent in the very form of explicit normative judgement: If the validity of normative judgement does not result from its formal structure, and if this indeterminacy results from the tension between the norm's generality and the case individual's concreteness, then every act of normative judgement arbitrarily bridges this gap in two directions: It posits an individual situation as a case of the norm, falling under it and being subject to its claim; at the same time, it redefines what counts as the norm's *normality*, the general make-up of possible cases of the norm – for "[e]very general norm demands a normal, everyday frame of life to which it can be factually applied and which is subjected to its regulations. The norm requires a homogeneous medium" (Schmitt 2005: 13). The question whether such normality is given or not, can – or so Schmitt argues – not be answered in advance, but is rather answered *in* and *by* judgement; every judgement intervenes in the practice of judgement mediating the general form and its particular instances in a continuous activity of "a living formation" (Schmitt 2005: 27), in which scope and direction of a norm's force is perpetually modified, transformed and evolved[41]. One might say that the question of normativity's *normality*

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41   Cf. Schmitt 2005: 31. Benjamin develops the same idea by saying that normative violence can be described in two perspectives, or two modes: as "lawmaking" and as "law-preserving" violence (Benjamin 1986: 284). Both modes are, of course, mere flip-sides of each other: if law in general is *made* (or violently posited), then it is posited proclaiming its absoluteness – it is posited as if it *had, in virtue of its generality, always already been* in force. Hence, the lawmaking quality of violence immediately appears as law-preserving. Conversely, law-preserving violence, be it the act of judgement or the execution of a sanction, always bridges the gap between the norm's generality and the particular situation (this is what defines its *violence*!). In judging

is precisely the conceptual revenant of the human being's essential "openness": it signifies a precarious tension, an occasion for dispute *within* the realm of normativity. The objectivity of *the law* is nothing but the actuality of this practice of judgement: This is Schmitt's answer to the problem of objective normative force[42] once a simple theological foundation of the "law conception" of normativity is no longer viable.[43] And it is precisely this tension in which the violence of the law consists.

3.3. It might seem that this tension undermines the very idea of an essential normativity at work in judgements relating human individuals to their life-form. The *formal* argument regarding the form of thought, the very representation of a living being as active and as being the cause of its own activity remains untouched by this. But not so the account of what counts as a successful realisation of the species concept or life-form, the substantive standards of goodness, for its plausibility rests upon the very practice of judgement it purposes to elucidate. Although this practice of judgement *is* rational, it is precisely its rationality that reveals the characteristic tension in explicit normative judgement. But then the practice of judging human conduct in light of the human life-form itself is faced

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something to be a case of the norm, the norm itself experiences a substantial modification. It gains a determinateness it can, in virtue of its generality, not provide for itself. Hence, the seemingly simple act of preserving a norm *via* its execution immediately appears as lawmaking violence – for the *enforced* norm is no longer identical to the norm prior to its situational application.

42   It is, of course, only *half* of Schmitt's answer; the other half results from Schmitt's considering only the *performative acts* of judging persons to possibly facilitate closure of the gap that characterises the very form of normative judgement. This is the core argument of his decisionism: He believes that, ultimately, the idea of normative force rests on the idea of a judging subject whose entitlement to judge cannot be rationally accounted for but only be factively declared (cf. Schmitt 2005: 34ff.), and which stems from the subject's sheer ability to enforce its decision. From this stems the authoritarianism Schmitt endorses. His argument hence articulates in the clearest possible terms the essential relativity of normative judgement (to the situation judged and the situation of the judgement) as a *problem* – only to embrace it as its own solution, personified in "the instance of competence" (a rough translation of "authority" personified). That "a decision" might be described as "absolute and independent of the correctness of its content" is, for Schmitt, not a scandal to be dealt with but rather an acclaimed feature of the sovereign judge (ibid.: 31). Hence, Schmitt explains the grammar of sovereignty in the sense of absolute normative validity and force only derivatively from explaining what characterises the sovereign *subject*: "he who decides on the exception" (ibid.: 5), which is mere shorthand for: he who is competent to judge whether something falls under a general norm or not, and by implication: what in general constitutes the norm's "normality", tokens falling without doubt within the scope of its claim.

43   Schmitt sees theological justification as outdated in the same way Anscombe does; however he argues that the theological *form* is by no means obsolete but rather the (only) adequate expression of the idea of law's objectivity; cf. Schmitt 2005: 36.

with an irreducible question regarding the life-form concept's applicability: While it is true that the idea of the human form makes reference to an individual *as exhibiting this form* categorically possible in the first place and, as it were, puts into place the normative grammatical framework for representation of human life in thought, this very operation renders invisible that the basic distinction at this framework's root – *viz.*, *what counts as* exhibiting the form in question – does *not* rest upon natural fact. The distinction between "rational" and "mere animals", between "human life" and "mere life" does not hold – as it claims – in virtue of individuals exemplifying different life-forms; rather the judgement *that* individuals exemplify different species concepts is based upon *the distinction* of modes of living *being made within the human form*, within human practice. The human form of life is distinguished from other forms of life *insofar human activity distinguishes itself from* these other forms, or distinguishes itself *in itself*.[44] Giorgio Agamben argues that this corrupts the very idea of sovereignty, that is: the idea of normativity in general's force understood as justified. To understand that the form of human life conforms to an essential normativity, he reasons, is to conceal the distinction that ensures this normative form's "normality", its unquestionable applicability[45]. In distinguishing qualified human life (*bios*) from sub-rational animal life (*zoé*) it becomes necessary to account for the logical tension between the general life-form concept and the particular individuals falling under it, that is: to account for the ever-present question whether an individual *does* in fact exhibit its life-form. Since this question can neither be answered by exclusive reference to the general life-form concept (for this concept regains its determinateness only by virtue of the individuals exemplifying it) nor by exclusive reference to the individuals (for in identifying an individual for what it is the general life-form concept is always already present), this in practice ever-open question implies (as its centre of gravity, one might say) a zone of indifference, an essential indeterminateness Agamben calls "bare life", visible only in problematic cases at the fringes of the rational practice of distinguishing "mere reproductive life" from (normatively) "qualified life"[46]. – One need not adopt the whole of Agamben's suspicion that the very idea of normative force should be subject to a radical critique, and even less his conclusion that thus the very idea of the human life-form as a framework of normative judgement is fatally flawed by the violence it exerts already in its initial

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44   This is the meaning of Marx's idea that "conscious life activity distinguishes man immediately from animal life activity" (Marx 1968: 516).
45   Cf. Agamben 1998: 26.
46   Cf. Agamben 1998: 181.

distinction, the very definition of its subject area.[47] But it is worthwhile to register his central intuition, dramatic as he may phrase it: That the human form of life – the rational practice of bringing oneself under a general "species-description" by means of explicit normative judgement – is at its very root *political,* that is: defined by a possibility of conflicting claims to an objective normativity. Such conflict cannot be resolved by theoretical argument or by reference to a common "natural goodness", because it is the very hallmark of the human form: that which defines the grammar of the attribute "humane", not as a sortal term in distinguishing different life-forms, but as a reflective concept that indicates a *mode* of living. To say that the human form of life is *political* is to say that the way in which human individuals bring themselves under their live form (immediately in action, or mediated in explicit forms of thought and judgement relating a human individual to the form of its activity) *implies* reference to the form and shape in which the practice of normative judgement is actualized: institutions, states, communities, positive

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47   In fact, Agamben's broader project does his initial observation a disservice in taking a genealogical approach to an essentially logical (or grammatical) problem. Agamben argues that it is due to the tradition of European metaphysics and its fundamental distinctions – above all: the Aristotelian distinction between *bios* and *zoé* – that the concept of sovereignty as an explanation of normativity and normative force rests upon a perpetual political conservation of biopolitical classifications and the appropriate regimes of power (cf. Agamben 1998: 81). But not only is his reading of the Aristotelian distinction's function far from compelling (cf. Boyle (internet): §1.3); above all, he mistakes the grammatical tension in the *form* of *law* as a mere product of an initial decisive distinction (taking Schmitt's decisionist argument at face value), a distinction which only ever could become visible after biopolitic's culmination in the German extermination camps (cf. Agamben 1998, Ch. III.7). This leads him to postulate the need for a way of living *beyond* the normative form (i.e. "law" in general) under which life falls, a mode of existence *beyond* the idea of normative force. He calls this mode of existence "form-of-life" to underline the inseparability, even the grammatical indistinguishability of an activity ("living") and its form: "By the term *form-of-life* [...] I mean a life that can never be separated from its form, a life in which it is never possible to isolate something such as naked life" (Agamben 2000: 3). I believe that this conclusion not only undercuts his initial finding that the very grammar of "form of life" is characterised by an essential tension, but moreover leads to dubious ideas regarding emancipative political strategy. These come up most clearly in his interpretation of Franciscan monastic life as an attempt at "the possibility of a human existence beyond the law. [...] Franciscanism can be defined [...] as *the attempt to realize a human life and practice absolutely outside the determinations of the law*" (Agamben 2013: 110); if we "call this life that is unattainable by law 'form of life', then we can say that the syntagma *forma vitae* expresses the most proper intention of Franciscanism" (ibid.: 111). This intention however is obscure by its very definition. In abandoning *the law*, normativity in general's explicit positive form, Agamben at the same time foregoes the possibility to account for the normative structure of his proposed radically different "form-of-life". A mode of living whose form cannot even analytically be "separated" from the activity whose form it is becomes utterly unintelligible.

law, *et cetera.* Of course, meta-ethical objectivists would not object[48]; but the idea outlined here furthermore entails that this essential politics of the human life-form is inherently problematic. The actuality of the objective normativity governing and structuring our form of life faces a conceptual challenge precisely because its situational adequacy cannot be ascertained but only, as it were, rehearsed and tested in human life and its self-development. The human form of life is defined by this conceptual *as well as* practical tension[49]. The *formal* argument of ethical naturalism holds: human form is (as its practical actualization and reproduction) the cause of what it (as explication by thought) understands. Yet what it understands is the inevitability of violence, of a gap between the generic species-form and the individuals bringing themselves under it; and this gap is ever-open because it belongs to the generic species-form that humans do not relate to it *individually* but in practical dispute and contest with their fellow humans[50]. Reason *does* provide us with the bare idea of satisfying one's life-form; but which modes of ethical life and practice may substantially count as such a satisfaction is essentially subject to political struggle.[51]

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48   Though it may be noted that explicit proposals to develop ethical naturalism in the direction of political theory are remarkably sparse; typically, an image of politics modelled after the late 20th century deliberative democracies of the western world serves as a backdrop for elucidating human "natural goodness" – as if this form of social organisation was self-evident; cf. for example Foot 2001: ch. 6.

49   "This is why the thesis stated at the logico-formal level [...] according to which the originary juridicopolitical relation is the ban, not only is a thesis concerning the formal structure of sovereignty but also has a substantial character" (Agamben 1998: 109).

50   Cf. Hampshire 1989: 189. An example of this idea going unnoticed is Robert Brandom's explanation of "constraint by norms". He writes: "Being constrained by or subject to norms is a matter of belonging to a community, and that is a matter of being *taken* to be a member by the rest of the community" (Brandom 1979: 192). This last condition however – being accepted and recognized as a member – is far from unproblematic. It raises the question of successful participation which is not only answered by giving reasons – case in point: sharing a common species – but, essentially, by eking out the right to claim membership. Hence, the very grammar of communal normativity implies political struggle. That Brandom seems unaffected by this may be a result of the fact that, despite his best intentions, he takes an individualist stance towards the problem of participation.

51   Note that the issue at hand is *not* a supposed *inadequacy* of our conceptual framework but the very working of this irreducible conceptual form. The idea that individuals could somehow in principle "fall through the cracks" of our conceptual framework betrays nothing if not a solid misconception of the role and the status of the form of life in human thought. To refer to something *as* a living individual *is* representing it in light of the form of life it exhibits; and likewise: to refer to someone as a person *is* to represent her in light of our shared form of life. The problem of misrepresentations of individuals whose rights to participation in the communal body were violated (of which a doleful abundance can be found throughout the history of mankind) is not a *philosophical* riddle inviting sceptic suspicions about the supposedly all-too narrow scope of our categorical framework. Such misrepresentations readily identify themselves as *a political and moral scandal*; for it is obvious that these individuals

4.1. Arguing that due to the grammar of its own articulation and expression *political struggle defines the very idea of the human form of life* seems to put the concept of objective normativity in dire straits. If normativity's actuality *is nothing but* the actuality of the human practice of normative judgement – if the latter's existence is the medium in which the former's actuality is even conceivable in the first place –, then we seem to be obliged to advocate an at least historical-relativistic idea of normative objectivity, if not a subjectivist stance: Normativity is ever in development, thus its claims on our conduct can at best be relative to a current practice; at worst, it cannot even at present exert a valid force on us, for "we" could always – be it as an individual or a collective subject – choose to transform its substantive shape by our own authoritative judgement.[52] Hence, if the scope and the meaning of the human life-form concept – the concept of humans' bringing themselves under the form they exhibit in action – is constantly contested and renegotiated, there appears to be a "tragic limit" to the level of objectivity achievable in normative judgement[53]. But this "tragic limit" would at once also limit the intelligibility of the very concept of normative objectivity; it would be rendered senseless.

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When Walter Benjamin argued that to understand ethical life is to understand the violence inherent in the idea of a conception of *law*, or of

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have been identified as exhibiting our common form of life, *have been* already acknowledged as persons. They figure as such in our thought; it would be utterly pointless to even mention the fact that they allegedly *do not* belong, were this not so. Consider how representing mere things *as living*, or sub-rational creatures *as* rational, does come easy to us, and surely accounts for some of the grammatical misunderstandings we are continually confronted with (from meteors "aiming for earth", to cats "plotting against blackbirds" or "telling us to hurry up with that tin of cat food", up to evolution "supplying finches with special beaks"): just like we are able to, in cases of all too open-minded inclusion, frame such manners of speaking as similes or analogies ("If a lion could talk, we wouldn't be able to understand it"; Wittgenstein 2009: II §327), we would have to go through considerable lengths to provide justification for subsequent exclusion of individuals we have already identified in light of our life-form. And indeed: authors throughout history regularly show that they very well feel the claims their own thought has put to them; why else would they comply to the necessity of providing elaborate reasons for – amongst others – the inability of people of colour to partake in enlightened reason, or the inability of women to exercise their right to political and social participation. The very description of the matter shows it to be an injustice, a wrong; it shows that those who verbosely claim it to express a self-evident right surely know it to articulate a wrong, for they have *pronounced and expressed* it so.

52   Obviously, the former position is a tragic rendering of Agamben's account, while the latter draws from Schmitt's presumably inevitable *auctoritas interpositio* (cf. Schmitt 2005: 31).

53   This is the conclusion Robert Cover draws: "as long as legal interpretation is constitutive of violent behavior as well as meaning, as long as people are committed to using or resisting the social organizations of violence in making their interpretations real, there will always be a tragic limit to the common meaning that can be achieved" (Cover 1992: 238).

normativity made explicit, he struggled with precisely this apparent di-
lemma: To understand explicit normativity as objective is to understand
normative force as a means in light of the end it realises; yet this very con-
ceptualisation renders normative force indistinguishable from violence, a
forceful intervention in our ethical life from without.[54] To adhere to the
idea of objective normativity, then, requires us to understand means as
"pure", that is: independently from the ends they may serve. To understand
means as "pure" does not mean understanding them as non-violent[55]; it
implies, as Benjamin writes, that "the violence of an action can be judged
no more from its effects than from its ends, but only from the law of its
means" (Benjamin 1986: 292; 1991: II 195). To understand an action's vio-
lence – its pertinence to the relations of ethical life, that is: *as norma-
tively qualified* –, it is necessary to account for its possible justice. Since
addressing the "relation between violence and justice" cannot be achieved
in the conceptual framework of means and ends – for it logically precedes
this framework and makes it possible, identifying "justice" with "function-
ality towards an end" – Benjamin proposes to understand an action's vio-
lence not "as a means to a preconceived end [....] but a manifestation"
(ibid.: 294). This, he argues, is the grammar that initial models of norma-
tive objectivity exhibit: They imagine the absoluteness and objectivity of a
normative claim as derived from a mythical figure, as a "a mere manifestation

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54   Properly speaking the term "ethical life" itself would be misused in such a grim
context, for it would only denote the mere facticity of convention or an authority
assumed by brute force.
55   Benjamin discusses such "non-violent means", for example the "technique of civil
agreement" (Benjamin 1986: 289). But such means are not "pure" in virtue of their being
non-violent (as Axel Honneth thinks, thus interpreting communication as the prototype
for the general form of "pure means"; cf. Honneth 2007: 145). Rather, their non-violence
is accidental to their "purity"; it stems only from the fact that their field of employment
is the *non-normative* elimination of technical problems: "They [...] never apply directly
to the resolution of conflict between man and man, but only to matters concerning
objects. In the most objectified [sachlichsten] relation of human conflicts to goods the
sphere of nonviolent means opens up" (Benjamin 1986: 289; 1991: II 191f.). Such conflicts
are oriented towards some objectified good; they appear as an interruption of quotidian
practice. Hence a solution of such conflicts is neither achieved in a rational exchange of
reasons, nor in establishing a balance of rights and duties, but merely by making the
conflict – i.e. the interruption – disappear. There is no violence in Benjamin's sense at
play in such conflict resolution because the whole process is *beyond* ethical life; it mere-
ly concerns "the relationships of private persons" (ibid.). Benjamin narrates his account
as if this sphere of "private conflict resolution" were in fact a historical predecessor to
the rule of law (cf. ibid.); but this historical figure serves only to highlight a conceptual
point: It is possible to understand the metaphysics of *language* as the "medium of being"
without reducing it to the normativity of human practices – language in general is, as it
were, only conceivable in the shape of human language, yet not reducible to it. The
"Critique of Violence" thus follows the argument outlined in his tract "On Language as
Such and on the Language of Man"; cf. Müller 2012: §3.

of the gods. Not a means to their ends, scarcely a manifestation of their will, but first of all a manifestation of their existence" (ibid.: 294). It is this *mythical* understanding of objective normativity's origin that constitutes the archetype of the "law conception" of normativity that Anscombe criticises (and Schmitt enthusiastically welcomes) – an understanding of law's objectivity that ultimately rests upon a "justification" of normativity through sheer factual power.[56] Because the attempts to justify normative force by means of theories of natural law or of legal positivism fall short, Benjamin concludes, "the mythical manifestation of immediate violence shows itself fundamentally identical with all legal violence" (ibid.: 296): the latter has traditionally been modelled after the former.

4.2. If there was no other way to account for *the law's* objectivity, Agamben would, alas, be right in assuming that the very idea of human activity's accordance with a generic form implies not only "violence" in Benjamin's use of the term, denoting an essential normative tension. We would be forced to acknowledge that, due to the form of its explication, the idea of human normativity is based on a primordial, unjustifiable distinction between "mere life" and the forcibly posited normality of the human life-form – a distinction whose reinforcement would be the prime purpose of normative institutions in general, for "with mere life the rule of law over the living ceases. Mythical violence is bloody power over mere life for its own sake" (Benjamin 1986: 297). But this is the crucial point: The very category of "mere life" belongs to the *mythical understanding* of normativity – an understanding which cannot be circumvented when addressing normativity as absolute and objective, yet which is by no means exhaustive. The alternative to a mythical interpretation of normative objectivity Benjamin presents is to understand it as *divine* – that is, to understand normativity's claim to absolute validity without the detour of a personified deity figuring as its origin, but rather as *identical* with an idea of justice which transcends all concrete human practices, yet is intimately concerned with them because it is *their principle*. "[D]ivine violence", Benjamin writes, is "pure power over all life for the sake of the living" (ibid.: 297). The seemingly theological language-game Benjamin employs in fact serves to elucidate objective normativity as *immanent* in human practice. It serves as a reminder that the uncertainty in practices of normative judgement can only be identified against the backdrop of an idea of human

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56   Cf. Benjamin 1986: 295.

life *going right*, of human form being exhibited successfully – that is, of an objective norm's violent (i.e. effective in normative practice) force manifesting a force unavailable to human intervention *and* exemplifying the very principle of human practices *as human*, the characteristic property of the human form of life. In a short fragment detailing the concept of justice, Benjamin argues that accounts of virtue ethics ultimately fall short in attempting to understand this double-faced objectivity – for since the explanation of virtue as a natural property of human beings succumbs, ultimately, to the criticism directed at natural law theory, virtue's goodness can only be spelled out as a demand addressed at an individual: that it ought to strive to realize its own species-form in the best possible way. But the idea of "justice" does not express such a mere orienting idea; it has a *factive* sense. It expresses the idea of a humane world's actuality. "Justice", Benjamin writes, "does not seem to [primarily] refer to a subject's good will but to a state of the world in general, justice is an ethical concept relating to the actual, virtue an ethical concept relating to the required. Virtue can be demanded, justice can ultimately only *be*, as a state of the world" (Benjamin 1995: 41). "Justice" attributively denotes the essential mode of human practice, its perpetual development and reproduction. This idea remains – in the first instance – necessarily abstract, for it merely articulates the *form* in which human practice is understood as governed by an objective normative force; a force which, despite its objectivity, is nonetheless a "manifestation" of nothing but this very practice's actuality, the medium in which something like a human form of "leading a life" can be thought of in the first place.[57] The meaning of "justice" can therefore not be derived from the general "natural goodness" of perfectly realising one's species-form, but contrariwise: the very idea of "natural" (i.e. essential) goodness is derived from the idea of an actual just human world[58]. "Natural goodness" is, then, not a fixed standard fit to resolve ethical ques-

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57   Hence the "proposition that existence stands higher than a just existence is false and ignominious, if existence is to mean nothing other than mere life [...]. It contains a mighty truth, however, if existence, or, better, life (words whose ambiguity is readily dispelled, analogously to that of freedom, when they are referred to two distinct spheres), means the irreducible, total condition that is 'man'; if the proposition is intended to mean that the nonexistence of man is something more terrible than the (admittedly subordinate) not-yet-attained condition of the just man" (Benjamin 1986: 299).

58   Benjamin tries to capture this, albeit in his rather opaque style, writing that there "is a subject's quite abstract principal right to every good, a right not grounded in needs but in justice, and whose ultimate intention is possibly not a subject's right of ownership but a good's right to goodness" (Benjamin 1995: 41): that a good's quality of goodness pertains to human beings is to be understood as *essential* for human beings, but as *accidental* to the very idea of a good, lest its claim to absoluteness and objectivity is infringed.

tions in theory. It expresses a formal clause in sorting, evaluating and navigating the conflicting positions, the power relations and struggles that constitute the make-up of political life: Even if from the perspective of the participants an ultimate agreement on the adequacy and justice of our stances and actions is, in light of the manifold of social claims and requirements, unobtainable[59], this essential practical complexity cannot give rise to neither scepticism towards the very possibility of normative objectivity, nor to the sort of voluntarist subjectivism that figures as skepticism's gritty existentialist flipside. For the very idea of conflicting viewpoints, of unresolvable clashes of interest, that is: of politics in general, is only intelligible in light of an idea of *successful* human practice, its development and perpetual transformation. Politics is, as one might say, the form of human movement, the form of *humane* activity. Rationality is its organ; justice is its *telos*. Thus, instead of looking at human *nature* as a guarantor of the source of ethical life's normativity, we should seek to understand the political form of its practice: its indeterminacy in the essential situational uncertainty of action[60] – keeping at bay the temptation to either fall for the "mythical" appearance of normativity's reach, or to soothe the practical tension which defines our form of life[61], and defines it as the original form of life[62].

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59   The standard case for such considerations is revolutionary action. A revolution can, by its very definition, not be *intended*, it cannot figure as an end justifying means (lest it be straightforward "mythical", "bloody" violence); on the other hand, an emancipative political strategy would be ill-advised to forego the concept of revolutionary change altogether. Thus, the very concept of revolution denotes not an event but rather an issue of contestation: an analytical means to evaluate political practice, maybe even a descriptive viewpoint especially suited to interpret the relative *failures* of political action, pressing the question how a political practice *had not been* revolutionary. "[I]f the existence of violence outside the law, as pure immediate violence, is assured, this furnishes the proof that revolutionary violence, the highest manifestation of unalloyed violence by man, is possible, and by what means". It is no oversight that Benjamin does not specify certain means – he is talking about political practice in general. Since political action is subject to normative contest, it is shown that it *can*, in principle, be objectively justified; that it *can* be a manifestation of, in Benjamin's words, "divine violence" (and not merely be justified relatively to contingent factual norms, i.e. *not* justified). Yet precisely *because* political action can only by addressed in a framework of means and ends its ultimate justice *remains a problem*. "Less possible and also less urgent for humankind [...] is to decide when unalloyed violence has been realized in particular cases. For only mythical violence, not divine, will be recognizable as such with certainty, unless it be in incomparable effects, because the expiatory power of violence is not visible to men" (Benjamin 1986: 300).
60   Cf. Hampshire 1999: 61; Derrida 1991: 57f.
61   Cf. Hampshire 1999: 80.
62   Philip Hogh and Felix Trautmann commented on a draft version of this essay, and I benefitted from their concise queries; Simon Müller helped considerably with what is not my first language. I thank them all.

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Jan Miler

Prirodna dobrota i politička forma ljudskog života

Rezime

Etički naturalizam objašnjava objektivnost u ljudskoj praksi delotvorne normativnosti logičkim odnosima između žive individue i forme života koju egzemplifikuje. Međutim, ovo objašnjenje je u slučaju ljudskog bića nedovoljno (1) ne samo zbog njegove esencijalne racionalnosti, nego stoga što je predstava praktično implicitne normativnosti upućena na eksplikaciju (2). Iznosim argument u korist teze da eksplikacija normativne snage i normativne pretenzije – pravo uopšte – uključuje napetost između bezuslovne pretenzije eksplicitne norme i partikularnosti situativnog slučaja, na koji se primenjuje. Ova tenzija bi se mogla razumeti kao indicija nasilja koje time ruši ideju objektivne normativnosti uopšte, i koje spada u ljudsku formu života (3). Uistinu, ono je samo naznaka okolnosti da je ljudska forma života suštinski politička. A takav stav stoga ne protivreči ideji objektivne normativnosti – pretpostavimo li da se podrazumeva da ova objektivnost nije izvedena iz nekog modela „prirodne dobrote", nego proizilazi iz stvarnosti ljudske prakse i njenog načela: pravde.

Ključne reči: prirodna dobrota, etički naturalizam, forma života, praksa, politika, Agamben, Benjamin, Fut