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QUINE'S TWO DOGMAS OF EMPIRICISM AND THE CONTINUING VIABILITY OF CONCEPTUAL JURISPRUDENCE[**]

The project of conceptual jurisprudence has been challenged on the ground it lacks normative implications that can help us to improve our legal practices. But the most serious challenge to the project has nothing to do with its practical value; it is has to do with its viability. Willard Van Orman Quine argues, in Two Dogmas of Empricism, that conceptual analysis is impossible because its objective is to explicate so-called analytic claims that, he argues, do not exist. This essay offers a new criticism of Quine's arguments, namely that they misconceive the objective of conceptual analysis and that, in consequence, these arguments fail to refute its viability. The project of conceptual jurispudence remains alive and well.

Key words: *Willard Van Orman Quine. – Modest and immodest conceptual analysis. – Metaphysics. – Analyticity. – Conceptual methodology. – The nature of law*.

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1. INTRODUCTION

The modern project of descriptive conceptual jurisprudence has always had critics. Richard Posner argues that the project is "futile, distracting, and illustrative of the impoverishment of traditional legal theory."[1] The problem, on his view, is that descriptive claims about the nature of law have no normative implications that would enable us to make law more just and hence that conceptual jurisprudence has no social value whatsoever:

> I have nothing against philosophical speculation. But one would like it to have some pay-off; *something* ought to turn on the answer to the question 'What is law?' if the question is to be worth asking by people who could use their time in other socially valuable ways. Nothing does turn on it.[2]

The problem with the project of conceptual jurisprudence, on this reasoning, is hence that it amounts, in essence, to unconstructive nitpicking which cannot help us improve our legal practices.

Other critics are put off by its abstract character. David Enoch, for instance, rejects the project as "uninteresting:"

> [Conceptual] jurisprudence is not that interesting.... I believe that even intelligent, well-informed and virtuous philosophers may be mistaken in what they take an interest in. It's not impossible for many such philosophers to take an interest in something that doesn't merit interest.[3]

Although he does not say why the project "doesn't merit interest," it is presumably because he believes it is too abstract and therefore too distant from the mundane facts of our lives to tell us anything worth knowing about ourselves. Enoch complains, for instance, that "legal philosophers should make more of an effort to engage the real world rather than just reflect about it from afar."[4]

Neither of these arguments succeed in problematizing conceptual jurisprudence. As to Posner, it is just plain silly to suggest that the only legitimizing rationale for pursuing a line of research is that it has social

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1 Posner (1996). For a response to such concerns, see Himma (2019).

2 Posner (1996, 3). Emphasis added.

3 Enoch (2019, 65–66).

4 Enoch (2019, 1).

benefits. There is much work done in pure mathematics that is not intended, or even minimally likely in the short term, to engender social benefits. Noneuclidean geometries (i.e., those that deny Euclid's Parallel Postulate) were invented, for instance, more than 50 years before Einstein found applications for them in his theory of general relativity.[5] Indeed, it is not preposterous to hypothesize (and this is an empirical hypothesis that requires experimental confirmation) that most theorists specializing in pure mathematics are not in the least motivated by a desire to produce such benefits.[6] That was, for what it is worth, my experience while studying pure mathematics as an undergraduate.

But, either way, the idea that anyone working in areas of mathematics, philosophy, or science that lack normative implications is committing a moral or intellectual wrong – which is what each of these critiques suggests – borders, to put it frankly, on bizarre. Every competent person has a moral right to autonomy that entitles her, within limits, to pursue those interests that endow her life with meaning and satisfaction as long as it does not cause wrongful harm to others.[7] The last I checked, conceptual jurisprudence was harmless, apart from its triggering the incorrigibly incurious.

As to Enoch, it is clear there is no objective standard – at least none that we ordinary mortals have epistemic access to – that determines what counts as interesting and that can hence be applied to dismiss what intelligent, well-informed, and virtuous philosophers find interesting as mistaken.[8] While Enoch concedes this crucial point, he does not realize that it largely repudiates his own argument.[9]

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5 Noneuclidean geometries were invented in the mid 19th Century (Gregorson, n.d.).

6 Werdann (2022), e.g., attributes aesthetic motivations to mathematicians, characterizing mathematics – rightly, on my view – as *art*.

7 But if one adopts a utilitarian standard of what one is morally obligated to do, as seems to be true of Posner, this much is clear: writing journal articles about the law is, absent unusual circumstances, not likely to meet this standard. Even the best scholars are, on this purely consequentialist standard, comparatively useless. And that's fine with me. I didn't get into this business to save the world.

8 It is not absurd to think that the only standards to which we have reliable epistemic access are the empirical ones constituted by our various evaluative practices. If so, the only epistemically accessible standard defining what counts as interesting is what intelligent, well-informed, and virtuous thinkers find interesting.

9 He argues: "One is tempted to go Millian, and say that a topic is interesting if people – certainly intelligent, well-informed, virtuous people – find interest in it. And judging by this standard, it cannot be denied that general jurisprudence is

Moreover, Enoch's argument is vulnerable to the same counterexamples that vitiate Posner's argument. Theorists specializing in pure mathematics do so not only because they find the topic intrinsically interesting but because they see beauty in it.[10] Like Enoch, I do not have a theory of what is objectively interesting, but this I can say with confidence: if there is anything is that is objectively interesting in this world, it is beauty; we are hardwired, after all, to appreciate it. As far as my tastes are concerned, the closest that philosophy ever gets to the beauty of pure mathematics is metaphysics, meta-ethics, and conceptual analysis when done well. That is why I continue to devote the limited hours of my life to conceptual jurisprudence, and that is more than enough to justify my doing so to anyone presumptuous enough to think I need a justifiaction.[11]

But this essay is not concerned with either of these arguments; it is concerned with an argument that Quine articulates in *Two Dogmas of Empiricism*.[12] Quine argues that conceptual analysis of any kind cannot be done because its point is to explicate claims that do not exist.[13] The point of conceptual analysis, on Quine's view, is to explicate analytic truths (i.e. claims that are true "by definition" or "in virtue of meaning").[14] But if there are no analytic truths whatsoever, then there are no analytic truths about law and thus nothing conceptual jurisprudence could teach us about the law. The fatal problem with the project, on this reasoning, has nothing to do with whether it is interesting, useful, or triggering; it is, that its objective is incoherent. It's like squaring a circle; it can't be done.

Quine's arguments against the analytic-synthetic distinction have led a *minority* of theorists to reject the distinction and the project of conceptual analysis.[15] Boghossian (1996, 360) summarizes what he incorrectly regards

fascinating." Enoch (2019, 2). What Enoch doesn't understand is that this is the best anyone can hope to do in articulating an epistemically accessible standard of what counts as interesting.

[10] See e.g., Werdann (2022).

[11] If more is needed, I think the abstract problems of metaphysics, meta-ethics (which is just the metaphysics of ethics), and conceptual analysis are far more challenging than normative problems. But that's just me.

[12] Quine (1951).

[13] General terms, like *law*, *water*, *blue*, *proposition*, define kinds (of thing). Our concepts pick out kinds.

[14] More than anyone else, Brian Leiter is responsible for bringing Quine's criticisms of conceptual analysis to legal theory. See Leiter (1999, 80). See also Leiter, Etchemendy (2021).

[15] Bourget and Chalmers (2023) conducted a poll of philosophers to ascertain their views on a variety of contentious questions. According to the most recent results, 62.5% of philosophers accept the analytic-synthetic distinction whereas

as the consensus on Quine's arguments as follows: "Quine showed there can be no distinction between sentences that are true purely by virtue of their meaning and those that are not ... [and hence] *devastated* the philosophical programs that depend upon a notion of analyticity."[16]

This essay offers a novel critique of Quine's arguments. In particular, it argues that Quine's arguments in *Two Dogmas* mischaracterize the point of conceptual analysis and, for this reason, do not get out of the blocks. Properly understood, its point is *not* to explicate claims that are true by *definition* or in virtue of the *meanings* of the words.[17] Its point is to identify any underlying assumptions that *there may be* about the nature of the relevant kind that condition the application of those terms in borderline or hard cases. Understanding these assumptions can help us to see why we adopted and use those terms (i.e., what work we need them to do) and can therefore tell us something important about how we conceive ourselves in relation to others and what we value. Once its point is righly understood, it becomes evident, as is argued below, that conceptual jurispudence is viable.[18]

I am not suggesting that conceptual jurisprudence is so important that philosophers should drop whatever they are doing to pursue it. It is clear that the *objectives* of normative political and legal theory are far more important, on any plausible conception of importance – although I doubt much of that work actually succeeds in producing any salutary changes in our legal practices.[19] But if some social pay-off is needed to justify pursuing

72.8% believe that there are *a priori* truths (i.e. claims that can be epistemically justified and hence known without recourse to empirical experience beyond what is necessary to understand the meanings of the terms used).

16 Emphasis added. This is hyperbole. Only 37.5% of theorists reject the analytic-synthetic distinction (see Note 15), and many continue to explicate socially important concepts like law, mind, justice, and free will. Although I argue here that the distinction is not relevant, Chalmers (2011) argues that it can be rescued with the help of Carnap's ideas and some technical logical tools.

17 At least, not in the ordinary senses of those terms. Those terms are used here and in Quine (1951) to refer to the meanings of those words as they are constituted by our semantic conventions for using them and summarized in dictionary definitions.

18 This should be obvious given that it continues to be done with some success. It cannot be plausibly denied, for instance, either that it is a conceptual truth that law consists of norms or that we are epistemically justified, on any standard that does not require Cartesian certainty, in believing that claim.

19 I have no idea how many law review articles are published each year – though I would guess it is well over 1,000. On the basis of my limited experience practicing law, I would hypothesize that much fewer than 1% of these articles are cited by a court as justifying a change in our legal practices. If one wants to do something likely to engender favorable changes in the law, writing law reviews articles is not

conceptual issues, it is enough that doing so can teach us something about our self-understanding and shared values. As Joseph Raz puts this point in connection with conceptual theorizing about the nature of law:

> The notion of law as designating a type of social institution is ... entrenched in *our* society's self-understanding.... In large measure what we study when we study the nature of law is the nature of *our* self-understanding.... It is part of *our* self-consciousness, of the way we conceive and understand *our* society.... That consciousness is part of what we study when we inquire into the nature of law.[20]

That is enough to constitute the project as *interesting*, on any plausible analysis of what counts as (objectively) interesting – assuming, of course, that some of us have reliable epistemic access to the relevant objective standards. Investigating our self-understanding regarding an institution that typically, if not necessarily, backs some of its prohibitions with painful sanctions can tell us much about how we conceive ourselves and our social relations to others; although these claims are descriptive and thus lacking in normative implications, they can help us in diagnosing problems with the law and can thereby enable us to address them more effectively. Indeed, I would go further: this suffices to constitute the project as not merely justified, but as one that is worth pursuing because of what it can teach us about *us*.

2. TWO METHODOLOGIES: MODEST AND IMMODEST CONCEPTUAL ANALYSIS

To get at the problem with Quine's arguments, it is important to distinguish two approaches to conceptual analysis. Modest conceptual analysis (MCA) is concerned to explicate the nature of a kind as it is determined by *our* semantic conventions for using the term together with shared philosophical assumptions about its nature, if any, that condition or qualify the application of these conventions in hard cases. Immodest conceptual analysis (ICA) is, in contrast, concerned to explicate the nature of a kind as determined

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the best way to go about it. Indeed, since there is disagreement on most issues, I would surmise that writing law review articles is as least as likely to produce unfavorable changes. One of the great tragedies in philosophy is that Marx's utopian vision of a classless, stateless society has been used to justify some of the most horrific violence in history.

[20] Raz (2009, 31). Emphasis added.

independently of what we do with words.[21] Otherwise put, MCA is concerned to explicate the nature of a kind as determined by our conceptual practices, whereas ICA is concerned to explicate the nature of a kind as determined independently of our conceptual practices.

Both methodologies proceed in two steps. The first step is to identify and explicate conceptual truisms that we are (presumptively) justified in believing because they are obvious – though each methodology must produce a plausible explanation of why we are justified in believing these claims are obvious. The second step is to identify certain implications of those truisms as they apply in cases that count as hard because it is not clear whether and how those cases fall under the relevant concepts.

It is crucial to grasp how the two approaches differ on the *epistemic* justification of these steps. The requisite justification is straightforward on MCA. Because *our* conceptual practices are constructed by *our* semantic conventions, we are justified – on any ordinary non-skeptical standard of epistemic justification that does not require Cartesian certainty – in believing a truism identified in the first step because it is transparently entailed by the core content of these conventions. (e.g, law consists of norms), which are described in rigorous lexicographical surveys that are roughly summarized in dictionary "definitions" as their "meanings."[22] The second step is to identify any assumptions *there might be* that qualify the application of *these* conventions in hard cases by utilizing the same techniques utilized by ICA – and, for that matter, any other serious analytic theorizing. These techiques include formulating thought experiments that test the application of a concept in hard cases and deploying formal logical methods that identify the possible outcomes and implications of these thought experiments.[23]

The two methodologies differ, then, only as to how these basic truisms are justified. MCA justifies them as being transparently entailed by the obvious content of our semantic conventions for using the constituent terms. For instance, we share the intuition, on the assumptions grounding

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21 For a well-known defense of MCA, see Jackson (1998).

22 Lexicography is an established social science and has a rigorous, well-developed methodology that satisfies the relevant social scientific standards; it is the sociology of word usage. See Section 4 for more on its subject matter and methodology.

23 The first step might appear to suggest that MCA is concerned just to explicate definitions or meanings, but the second makes clear that MCA is concerned, more broadly, to explicate our conceptual practices pertaining to a term of interest *in their totality*. These practices sometimes, though not always, incorporate shared assumptions about the nature of the corresponding kind that qualify the application of these conventions in hard cases (e.g., whether the Pope is a bachelor) and that therefore transcend what they transparently entail by themselves.

MCA, that all bachelors are unmarried because, and only because, we use the term *bachelor* to refer *only* to unmarried men – i.e., because it is a conceptually necessary condition for someone to count as a bachelor that he is unmarried. This cannot, of course, resolve more difficult issues about the term's conceptually sufficient conditions, such as, whether it is sufficient to constitute the Pope as a bachelor that he is unmarried. However, it is enough to refute any worries about whether those intuitions are epistemically reliable because they concern aspects of our conceptual practices every competent speaker can plausibly be presumed to know just in virtue of being competent with the language. Since, after all, it is the practices of competent speakers pertaining to the use of a term that determine the content of the corresponding semantic conventions, it is the knowledge of these practices that constitutes a speaker as competent with that term.

It is not altogether clear how ICA justifies them, but the justification would have to assume, unlike MCA, that we have reliable epistemic access to the objective nature of kinds – i.e., to the nature of a kind as it is determined independently of our conceptual practices.[24] Although this justification is not grounded in our conceptual practices, it would *presumably* explain why we have adopted the practices that we have adopted, rather than some others. We use the term *bachelor*, on this reasoning, to refer only to unmarried

[24] I am not aware of any theorists who have either endorsed ICA or rejected MCA. But this is, in part, because legal theorists are not as transparent as they in articulating their methodological assumptions or in grounding their conceptual claims in claims about *our* conceptual practices. For that reason, it is not unusual to see theorists defend conceptual claims about law that are utterly untethered to empirical claims about how we use the term *law*.

For instance, Scott Shapiro never attempts to ground his view that norms and plans are ontologically identical in our conceptual practices; and there is simply no way to defend this preposterous view by reference to such practices. First, if you are trying to make romantic plans with your partner for the weekend, it would be confusing *in the extreme* to tell them you would like to make *norms* with them for the weekend; conversely, if you are a legislator and want to make constituents aware of an upcoming session where the legislature will vote on enacting a new norm, it would be confusing *in the extreme* to say that the legislature will be convening in that session to make *plans*. Second, the existence conditions for plans and norms differ in this important respect on our conceptual practices: it is a necessary condition for a plan to bind a person that she accepts the plan; however, it is not a necessary condition for a norm to bind a person that she accepts the norm. As far as our conceptual and evaluative practices are concerned, objective moral norms, if there are any, and legal norms bind subjects regardless of whether those norms are accepted. Whatever it is that Shapiro takes himself to be explicating in that part of *Legality*, it has nothing to do with how we use the words *norm* and *plan*. It is false, and quite transparently so, that our conceptual practices equate norms and plans. See Shapiro (2011).

men because we are justified in believing it is a *prelinguistic* objective truth that only unmarried men count as bachelors.[25] Otherwise put, we adopt a convention for using *bachelor* that transparently entails that only unmarried men can count as bachelors because we immediately understand intuitively that it is an obvious prelinguistic objective truth that only unmarried men count as bachelors

Quine assumes in *Two Dogmas* that the only viable methodology for conceptual analysis is MCA. He acknowledges, for instance, that the application conditions for any term in the language are contingent and can hence change – a claim that is compatible *only* with MCA:

> Any statement can be held true come what may, if we make drastic enough adjustments elsewhere in the system. Even a statement very close to the periphery can be held true in the face of recalcitrant experience by pleading hallucination or by amending certain statements of the kind called logical laws. Conversely, by the same token, no statement is immune to revision. Revision even of the logical law of the excluded middle has been proposed as a means of simplifying quantum mechanics; and what difference is there in principle between such a shift and the shift whereby Kepler superseded Ptolemy, or Einstein Newton, or Darwin Aristotle?[26]

This mirrors the assumptions grounding MCA. MCA assumes that the world of our experience is structured by the conceptual framework that we impose on it to think and talk about it – which is what makes it interesting to many of us who pursue conceptual analysis. Indeed, I do not think it overstates the matter to claim that *the world of our experience* is a continuing construction of our conceptual practices – although the material world itself is not.[27] Inasmuch as Quine assumes that the application conditions of a term are contingent and can thus be changed when needed, his arguments in *Two Dogmas* are most plausibly interpreted as directed at MCA.

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[25] If we lack reliable epistemic access to such objective truths, as I have suggested above, then this belief is unjustified.

[26] Quine (1951, 40). This suggests that our conceptual practices with respect to the material world express a working hypothesis about what it is really like and thus about the nature of natural kinds as it is determined independently of what we do with words. This is discussed in more detail below.

[27] The world appears to a newborn infant, for the most part, as a two-dimensional canvas of undifferentiated shapes and colors (think of the "snow" that appeared on TV screens in between broadcasting channels before cable and streaming became

3. LINGUISTIC COMPETENCE, MCA, AND BORDERLINE CASES

It is crucial to note that our semantic conventions, and the definitions that purport to report them, do not decide all issues of word usage – at least not in the formal mathematical sense that a question counts as decidable just in case there is an algorithm that answers it correctly in every case. Our conventions for using a term, and the dictionary definitions that purport to report them, merely establish a baseline for linguistic competence; as such, they govern only easy cases – i.e. those that ordinary people are, at least, minimally likely to encounter in the world and do not require philosophical reflection to resolve.

Linguistic competence does not require the ability to apply a word in hard cases. I doubt, for instance, that anyone *knows* – in the sense of having a justified true belief on even ordinary epistemic standards – whether a hot dog counts as a sandwich. I would hypothesize that our conceptual practices pertaining to *sandwich* are ontologically indeterminate on this fascinating issue. Nevertheless, I am certain that every fluent English-speaking adult I have ever known is competent using the term *sandwich*. If one understands that it applies to any object comprised by an edible filling[28] enclosed in two slices of bread, then one counts as competent with the term *sandwich*.[29]

Competence with a term does not require an ability to apply it in hard cases because a case is hard only if our conventions for using it are *facially* indeterminate, as an epistemic matter, on whether or how they apply to that case and thus only if it is not obvious whether and how they apply in that case.[30] An instance counts as a hard case of a term *t*, then, if and only if it

available). As infants begin to acquire concepts, which happens to some extent long before they learn a language, they begin to identify some of these shapes and colors as objects that have significance. See, e.g., Johnson (2010).

[28] The term *sandwich* is often used in conjunction with fillings that are not edible, as when someone describes something as a "shit sandwich." But that usage, absent somewhat disturbing circumstances, is not literal.

[29] The question of whether a hot dog counts as a sandwich arises, I think, because it is unclear whether a hot– dog bun counts, even when separated, as two slices of bread. In contrast, it is uncontentious that a hamburger bun does and hence that a hamburger counts as a sandwich.

[30] The relationship between epistemic and ontological indeterminacy differs according to whether one adopts a modest or immodest approach. Since we cannot presume to have epistemic access to immodest truths about the nature of a kind, a conceptual issue can be epistemically indeterminate to us without being ontologically indeterminate. But since we manufacture our conceptual practices

falls within the penumbra – or open texture – of our conventions for using *t* in the following respect: it is *not* obvious *either* that *t* applies to that instance *or* that *t* does not apply to that instance.

It is true, of course, that any speaker who understands the shared assumptions about the nature of a kind conditioning the applicable conventions counts as competent with the associated term. But linguistic competence with a term does not require understanding any shared underlying philosophical assumptions or understanding whether and how the term applies to hard cases; if it did, only the most philosophically sophisticated speakers would count as competent with terms implicating significant areas of open texture. But in the case of terms picking out complex institutions like *law*, this would exclude the vast majority of people lacking a university education – an obvious refutation of any claim that implies this patently false, and offensively elitist, view.

Bracketing Quine's worries about meaning and definition, competence with a term requires just enough understanding of the applicable conventions as reported in a dictionary definition to use it correctly in the vast majority of cases one is likely to encounter. Since (1) the lexicographical reports grounding a dictionary definition of a term's "meaning" are concerned to *roughly* summarize our semantic conventions for using that term and (2) those conventions govern only easy cases, it suffices to constitute a speaker who understands the *syntactic* conventions of the language as competent with a term, on the views challenged in *Two Dogmas*, that she understands its *definition* and *meaning* well enough to apply it reliably in easy cases.[31]

4. METAPHYSICS, NECESSITY, AND CONCEPTUAL ANALYSIS

Conceptual analysis is concerned to explicate the nature of some kind picked out by a term of interest: an analysis of the concept of law is concerned to explicate the nature of the kind picked out by the term *law*; an analysis of the concept of authority is concerned to explicate the nature of

through processes that are epistemically transparent, it is plausible to think that what explains epistemic indeterminacy on a conceptual issue is that our practices are ontologically indeterminate on that issue.

[31] Henceforth the term *meaning* should be read as enclosed in quotation marks as indicating "if there are such things" so as to avoid my begging any questions against Quine.

the kind picked out by the term *authority*; and an analysis of the concept of bachelor is concerned to explicate the nature of the kind picked out by the term *bachelor*.[32]

The nature of a kind is determined by the properties that constitute something as an instance of that kind (i.e., its *constitutive properties*) – that is, the properties something must have to count as an instance of that kind: the nature of law is determined by the properties that constitute something as a law; the nature of authority is determined by the properties that constitute someone as an authority; and the nature of bachelorhood is determined by the properties constituting someone as a bachelor. As it is more typically put, the nature of a kind is defined by its *existence conditions* (i.e., its constitutive or inherent properties).

Claims about the nature of a kind are necessarily true if true: to say it is in the nature of a legal system that it consists of norms is to say it is necessarily true that legal systems consist of norms; to say it is in the nature of authority that it tells people what they must do is to say it is necessarily true that authorities tell people what they must do; to say it is in the nature of bachelorhood that bachelors are unmarried is to say it is necessarily true that bachelors are unmarried; and so on.

There are three principal kinds of *descriptive* necessity: logical, metaphysical, and nomological.[33] A claim is logically necessary just in case it is legitimately deducible[34] from just the relevant class of favored logical axioms, which are presumed to express logically necessary truths.[35] The claim expressed by the schema "if *p*, then *p*" is presumed to be logically necessary in virtue of being legitimately deducible from these favored

[32] As *Oxford English Dictionary* reports this usage, the term *nature* means "the basic or inherent features, character, or qualities of something." *https://www.lexico.com/en/definition/nature*, last visited March 22, 2025.

[33] Objective moral claims are thought to be *normatively* necessary.

[34] I say "legitimately deducible" instead of "validly deducible" because any claim that is necessarily true can be validly deduced from any set of claims, including the empty set. The proof is as follows: an inference of a claim from a set of premises is valid if and only if it is impossible for the premises to all be true and the conclusion false. But this means that any claim that *cannot* be false can be *validly* deduced from every set of claims because it is impossible for that claim to be false – regardless of whether the premises are true. The problem, of course, is that a valid deduction of a claim from a false claim is not persuasive on our evaluative practices. For a classic introduction to propositional and quantificational logic, see Enderton (2001).

[35] I use the term *presumed* here to indicate that our assessments of what is necessarily true ultimately rest on claims that have to be assumed. Though this is true of each of the various types of necessity discussed below, I will omit the qualification *presumed* in what follows for purposes of brevity.

logical axioms by means of truth-preserving inference rules. Insofar as (i) these favored logical axioms are logically necessary and (ii) the application of these truth-preserving inference rules cannot result in the inference of a false claim from a set of true claims, any claim that is legitimately – and hence validly – deducible from these favored axioms using just these inference rules is also logically necessary.[36]

A claim is metaphysically necessary just in case it is legitimately deducible from the union of some class of favored logical axioms and a set of claims that are presumed to be true no matter which laws describing causal regularities in this world are true but which does not follow from just the class of favored logical axioms. The claim that nothing can be simultaneously red and green all over is metaphysically necessary if it is true, as seems obvious, regardless of what the laws of nature had turned out to be. However, this claim is not legitimately deducible from a set consisting of just logical axioms and laws describing causal regularities in this world. It can be legitimately deduced only from a set that includes necessary truths not entailed by those two classes of claims. Accordingly, one particularly salient difference between logical and metaphysical necessity is that the logical necessity of a claim is wholly explained by its *form* whereas the metaphysical necessity of a claim is, at least, partly explained by its *content*.

There are two species of metaphysical necessity: conceptual and nonconceptual. A metaphysically necessary truth counts as *conceptual* if and only if it is true in virtue of how we use the constituent words: the notion that every bachelor is unmarried is conceptual because it is true in virtue of the way that we use the constituent terms. In contrast, a metaphysically necessary truth counts as *nonconceptual* if it is true but not wholly in virtue of how we use the constituent terms: the idea that nothing can be red and green all over counts as nonconceptual because it is true no matter what the laws of nature happened to be but is not legitimately deducible from just the union of the set of favored logical axioms and a set of claims that exhaustively describes our conceptual practices. The descriptive necessity of each of these claims, then, is explained, at least in part, by its content.

[36] It should be noted that the set of legitimate deductions is a proper subset of the set of valid deductions. It is also a proper subset of the set of *sound* deductions (i.e., valid deductions from a set of all true premises). A deduction of one necessary truth from another completely unrelated necessary truth is sound, but it is not legitimate, as I use the term, because such an argument cannot be used to persuade, except in very artificial formal circumstances.

A claim is nomologically necessary if and only if it is legitimately deducible from the union of some set of favored logical axioms, some set of favored metaphysical claims, and a set of claims describing *necessary* causal regularities in our world (such as those of physics) but is not legitimately deducible from just the union of the sets of favored logical axioms and metaphysical claims. The claim that water freezes at 32^{o} Fahrenheit counts as nomologically necessary in virtue of being legitimately deducible *only* from a set including claims we believe correctly describe these causal regularities..

Claims about the nature of a kind count as metaphysical since they are necessarily true, if true at all, *and* cannot be deduced from any set consisting entirely of favored logical axioms and claims describing causal regularities in our world. Logical axioms are formulas that are assumed by the system they construct, which can be combined with inference rules to deduce other formulas. It is clear, for instance, that nontrivial *substantive* claims about the nature of a kind cannot be legitimately deduced from logical axioms like p® (q® p) – regardless of how the sentence variables are interpreted.[37] It is also clear that claims about the nature of a kind cannot be validly deduced from nomological laws like $e=mc^2$. Since (1) there are three kinds of descriptive necessary truths and (2) true claims about the nature of a kind are descriptively necessary truths but cannot be deduced from any set consisting only of logical axioms and statements describing causal regularities, it follows that claims about the nature of a kind count as metaphysical – and, further, that claims describing its constitutive properties also count as metaphysical.

The content of *our* conceptual practices regarding a term supervene on the content of our semantic conventions for using it. Since our conventions for using a term can change, the truth-value of claims about the nature of a kind change when the applicable conventions change. Although conceptual claims, given that they are metaphysical, are necessarily true, if true, they are necessarily true *only* relative to some set of contingent practices for using the constituent terms; if the content of the relevant practices changes in any salient respects, then so will the truth-value of any claims supervening on that content. Thus, the necessity of conceptual claims is *conditional* because whether a conceptual claim is true depends on the underlying contingent social practices defining the semantic conventions for using its constituent terms.

[37] I say "nontrivial" to exclude logically necessary claims. If, for instance, one substitutes the proposition that "it is the nature of law that it consists of norms" for both p and q in the above schema, the resulting sentence is logically necessary. However, assuming that this claim is properly construed as a claim about the nature of law, it is truth-functionally tautological and hence trivial.

Quine points out, believing it is a criticism of conceptual analysis, that there are no claims, metaphysical or otherwise, that cannot be revised if needed or expedient.[38] But this is neither surprising nor problematic. Our language is always evolving, either because we are inventing new words or because we are revising our semantic conventions for existing words. Since our semantic conventions can change, what is conceptually necessary at one moment may not be conceptually necessary at another if the applicable conventions change in certain ways.[39] The syntactic and semantic conventions constituting a language impose a conceptual framework on the world that incorporates a revisable hypothesis about how it is objectively structured[40] – a point that Quine explicitly accepts and one that harmonizes with *Two Dogmas*.[41]

5. EVALUATING THE QUINEAN ARGUMENT

The argument that matters for my purposes is straightforward: Quine conceives conceptual analysis as concerned to explicate analytic truths – i.e., claims that are true "by definition" or "in virtue of meaning" – and

[38] See the quote referenced in Note 26.

[39] Our conceptual practices pertaining to gender, for instance, are undergoing profound changes – though the underlying disagreements are commonly expressed in immodest terms of what *objectively* or *really* defines its nature. This is problematic if, as I have suggested, we lack reliable epistemic access to the nature of a kind as it is determined independently of our conceptual practices.

[40] It is worth reiterating that the assumptions grounding MCA differ from those grounding ICA. ICA assumes that we adopt a set of conceptual practices because we are epistemically justified in believing they mirror the objective structure of the world; MCA assumes no more than that we believe that the conceptual practices we adopt mirror the objective structure of the world.

[41] *Two Dogmas* assumes, as does MCA, that our ontology is constructed – or "posited" – by our conceptual practices; as Quine puts it: "Now I suggest that experience is analogous to the rational numbers and that the physical objects, in analogy to the irrational numbers, are posits which serve merely to simplify our experience.... Positing does not stop with macroscopic physical objects. Objects at the atomic level and beyond are posited to make the laws of macroscopic objects, and ultimately the laws of experience, simpler and more manageable." Quine (1951, 42). These posits express working, and hence rebuttable, hypotheses about what the material world is like independent of the structure we impose on it with our conceptual practices to talk about it and organize our experience – i.e. how the natural world is *really* structured.

argues there are no such claims. The problem, on his view, is that there is no noncircular way of formulating the distinction between claims "grounded in meanings independently of matters of fact" and claims "grounded in fact."

Quine's argument rests on a number of concerns about the concepts of meaning and definition that underwrite the analytic-synthetic distinction. He questions, for instance, the idea that meanings exist:

> [W]hat sort of things are meanings? They are ... ideas, somehow – mental ideas for some semanticists, Platonic ideas for others. Objects of either sort are so elusive, not to say debatable, that there seems little hope of erecting a fruitful science about them.[42]

Quine surmises, further, that even if there are things to which the term *meaning* refers, such entities play no useful role in explicating the distinction: "if a standard of synonymy should be arrived at, we may reasonably expect that the appeal to meanings ... will not have played a very useful part in the enterprise."[43]

Quine denies that the notion of meaning can be explained in terms of, or analytically reduced to, that of definition because he believes the concept of definition is also in need of clarification:

> There are those who find it soothing to say that the analytic statements of the second class reduce to those of the first class, the logical truths, by *definition*; 'bachelor,' e.g., is *defined* as 'unmarried man.' But how do we find that 'bachelor' is defined as 'unmarried man'? Who defined it thus, and when? Are we to appeal to the nearest dictionary, and accept the lexicographer's formulation as law? Clearly this would be to put the cart before the horse.[44]

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[42] Quine (1951, 3). It might be difficult, as Quine claims, to construct a "fruitful science" about meanings, depending on what he means by this. But lexicography *is* a social science devoted to ascertaining meanings and seems as fruitful as any other area of sociological theorizing. Either way, they are as fairly characterized as *posits* as irrational and imaginary numbers, which are subjects of mathematical theories. Our conceptual practices presuppose that any noncontradictory noun or noun-phrase picks out a set of abstract objects. This is an important point that Quine consistently overlooks in *Two Dogmas*.

[43] Quine (1951, 3).

[44] Quine (1951, 4). To answer Quine's question of who decided *bachelor* means *unmarried man*: *we did. We* collectively decided that when *we* converged on adopting and practicing a convention dictating that *bachelor* applies only to unmarried men.

Quine argues that the only remotely viable way to explicate the related notions of definition and meaning is in terms of the notion of synonymy but rejects the claim that synonymy can be defined in a noncircular way; he concludes that there cannot be any such entities in the world because he assumes, without argument, that entities that can be defined or otherwise explicated only in circular terms cannot exist.[45]

These arguments are problematic. If sound, they would require rejecting, as Grice and Strawson (1956) point out, many useful distinctions with important ontological and discursive implications: Quine's arguments entail, for instance, that numbers, sets, and the evaluative entities purportedly corresponding to terms like *good*, *bad, right, wrong, moral*, *immoral*, etc., do not exist.[46] Rejecting these distinctions would, then, require banning indispensable areas of discourse from our conceptual practices[47] – assuming that there is no less objectionable set of conceptual practices that would enable us to talk about them in non-circular ways: if there is nothing that is good, bad, moral, or immoral, we cannot sensibly apply these terms in ethics; if there are no sets, classes, or numbers, we cannot sensibly apply these terms in mathematics; and so on.

Although I find such arguments persuasive, there is a more fundamental theoretical problem here missed by Quine's critics, namely that his arguments misconceive the point of conceptual analysis. It is true, of course, that conceptual analysis is concerned to identify and explicate the implications of claims that are true wholly in virtue of how we use words; however, it is false that it is concerned to explicate the ordinary meanings of words. Hart's analysis of the concept of law goes well beyond what can be found in any

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And it is not putting "the cart before the horse" to "accept the lexicographer's formulation as law" because these formulations are grounded in scientifically rigorous empirical surveys of our semantic conventions.

45 Although I see no reason to accept this claim, it assumes our language defines our ontology – an assumption that is consistent only with MCA.

46 Grice, Strawson (1956, 141–158).

47 It is not clear, for instance, how we could live together without concepts incorporating behavioral standards, such as right and wrong. Without a language to express our grievances about the acts of others, it is plausible to hypothesize that there would be much more violence in the world than there is.

dictionary report of the meaning of *law*[48] – though it is consistent with all of them.[49] One way to see this is to compare the length of Hart's book with that of the lengthiest dictionary definition of the term *law* that one can find.

Quine misconceives the division of labor between lexicographers and philosophers in explicating our concepts. It is the task of lexicographers, who have the requisite training in social scientific methodology, and not that of philosophers, to identify our conventions for using the terms and to explicate them in the form of definitions that report their ordinary meanings. It is the task of philosophers, and not that of lexicographers, to ascertain whether there are shared assumptions about the nature of a kind that qualify the application of those conventions in hard cases and to explicate those assumptions.[50]

The underlying problem is that Quine falsely assumes that our conceptual practices pertaining to a word are *necessarily* fully determined by our semantic conventions for using it. How we use a word depends on those conventions, of course; but it can also depend on shared assumptions about the nature of the kind that condition their application in hard cases.[51] Neither

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[48] *Merriam-Webster* defines the relevant usage of the term *law* as follows: "a binding custom or practice of a community: a rule of conduct or action prescribed or formally recognized as binding or enforced by a controlling authority." *https://www.merriam-webster.com/dictionary/law*, last visited March 24, 2025. There is no mention here of many important notions that figure prominently in Hart's theory, such as validity, rules of recognition, obligation, etc.

[49] That is, in part, what makes Hart's analysis plausible.

[50] Even here, there may be a division of labor between the philosophical and the empirical. The philosophical task is to identify any assumptions about the nature of the relevant kind that cohere to some sufficient extent with our conventions for using the word and that would explain why we have adopted the term. But in more contentious cases, it might be necessary to survey competent speakers to ascertain whether these assumptions are, in fact, *shared* by the community of speakers. One of the most significant recent developments in legal philosophy has been the use of experimental methods in addressing various philosophical issues, including conceptual issues; however, the proper role of these methods in addressing conceptual issues is still being worked out. See, e.g., Himma (2023).

[51] The claim that these assumptions must be shared to count as being part of our conceptual practices suggests that identifying these assumptions is a wholly empirical issue that can be addressed by surveying speakers. The problem with this reasoning is that these assumptions are often latent in the minds of speakers; this is why philosophical analysis is needed to expose them as well as the role they play in our conceptual practices. But there might be cases where the assumptions identified by a philosophical analysis are not shared among the population of speakers. In these cases, it is not absurd to conclude that the indeterminacy in our practices is not merely *facial* – unless it can be shown that speakers are committing enough of a logical error to discount their intuitions. But the issue of how to handle

the semantic conventions for using a term nor the descriptions of them roughly summarized in dictionary reports as their *meanings* and *definitions* tell us whether there are any such assumptions and, if so, what they are.

A familiar example will help make the point. Notwithstanding that every dictionary defines the term *bachelor* as an "unmarried man" and that someone must be an unmarried man to serve as Pope, many speakers balk at characterizing the Pope as a *bachelor* because the Roman Catholic Church does not allow a married man to serve as Pope. The underlying assumption is that it is a necessary condition to count as a bachelor that a man be eligible, institutionally or psychologically, to marry – and the Pope is not eligible in either of these respects. Indeed, it is plausible to think that the reason we adopted the term *bachelor* was to distinguish adult males who are marriageable or otherwise partner-able from those who are not, because most people hope eventually to find a long-term companion with whom to share their lives.

Disagreements about whether the Pope counts as a bachelor ultimately concern the properties constituting someone as a bachelor and thus concern the nature of bachelorhood. People who disagree on whether the Pope is properly characterized as a *bachelor* disagree, at bottom, on whether the nature of bachelorhood is exhausted by the properties of being unmarried, adult, and male. Those who believe the Pope counts as a bachelor assume that the nature of bachelorhood is exhausted by these properties, whereas those who believe that the Pope does not count as a bachelor assume that the nature of bachelorhood includes, in addition, the property of being eligible in some appropriate way. But, without more, in neither case should a speaker be construed as having *asserted* a claim about the nature of bachelorhood as it is determined independently of how *we* use the term *bachelor* – i.e., as an immodest claim about its nature.[52]

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such conflicts is an extremely difficult issue that requires more attention from those defending the use of such techniques in conceptual jurisprudence. There is a reason that these borderline cases are characterized as *hard*.

[52] Although our conceptual practices are plausibly conceived as expressing an immodest hypothesis about the nature of the kinds picked out by natural-kind terms, this does not entail that speakers are articulating that hypothesis when they take a position on a hard case involving such a term. I would surmise, for instance, that we use the word *Moon* to refer to the object we take to be the Moon because we believe it really exists and is distinct from other material objects we have named like the Earth. But this does not entail that we are *asserting* such claims when we talk about the Moon. While a speaker will surely endorse that claim, it is not expressed by every utterance about the Moon; that claim is merely presupposed.

These underlying philosophical beliefs about the nature of bachelorhood condition the views of speakers on whether the Pope counts as a bachelor, but those beliefs are neither entailed nor expressed by claims about whether the Pope counts as a bachelor. For instance, and I have heard this on more than one occasion, a speaker might deny that the Pope counts as a bachelor on the ground that he is *married* to the Church.[53] A speaker who endorses this view believes that the Pope does not count as a bachelor because he is married and hence that he does not fall within the core content of our semantic conventions for using the term. In contrast, a speaker who believes the Pope counts neither as married nor as a bachelor believes the Pope falls within the core content of these conventions but that these conventions are qualified in this case by the assumption that a man must be institutionally eligible for marriage to count as a bachelor.

Accordingly, the argument of *Two Dogmas* is grounded in two misconceptions about conceptual analysis. The first is that, contra Quine, it is not the meanings of a term, as reported in dictionaries, that determine how that term is used. It is, rather, our semantic conventions and any shared underlying assumptions there might be about the nature of the corresponding kind that determine how it is used.

The term *meaning* is just a shorthand way of referring to the dictionary reports of those conventions. It might be true that conceptual analysis requires a sophistication with empirical methods that most analytic philosophers do not have, but that is a different point. It is not necessarily true that all one *ever* needs to do to *fully* understand a term's application conditions is consult a dictionary or otherwise identify the semantic conventions governing its use because the content of our concepts is not necessarily fully determined by those conventions. Indeed, though there may be terms with just easy applications, any term worth obsessing over from the nurturing safety of the philosophical armchair, like *law*, will have some challenging applications.

The second misconception is that it is false that the concerns motivating conceptual analysis are limited to explicating the content of these semantic conventions in the form of meanings and definitions. Quine's arguments

[53] This reasoning strikes me as problematic. Our conceptual practices appear to assume that only personal beings can be married, and the Church is an abstract institutional object. The claim that the Pope is married *to God*, which I have also heard, is problematic, on my view, on both substantive theological and conceptual grounds.

overlook the important point that it is the job of lexicography, and not philosophy, to describe those conventions in the form of meanings and definitions. As Bergenholtz and Gouws (2012, 38) explain:

> There are two types of lexicography: 1. The development of theories about and the conceptualization of dictionaries, specifically with regard to the function, the structure, and the contents of dictionaries. This part of lexicography is known as metalexicography or theoretical lexicography. 2. The planning and compilation of concrete dictionaries. This part of lexicography is known as practical lexicography or the lexicographic practice.

Accordingly, the practical dimension of lexicography is concerned with the compilation of dictionaries whereas the theoretical dimension is concerned with the study of dictionaries; both are ultimately concerned with the study of our conventions for using words. But these conventions, as discussed above, may not completely determine the application conditions of the corresponding terms.

Conceptual analysis is concerned with a complementary task – namely, to explicate the application conditions of words (and thus the nature of the associated kinds) when they are partly determined by shared assumptions that qualify the application of our conventions to hard cases that fall within their penumbra. It is thus concerned to identify statements that are true wholly in virtue of our comprehensive practices for using the constituent words – and not statements that are true by definition or in virtue of meanings. While any statement that is true by definition or in virtue of meaning will also be true in virtue of these practices, the converse is not true. The claim that every legal system has a rule of recognition is true in virtue of how we use the constitutent words; but it misdescribes the matter to claim that it is true *by definition* or *in virtue of meaning*.

MCA is grounded in the uncontentious claim that our semantic conventions are not *necessarily* the sole determinants of a term's constitutive properties and hence need not be the sole determinants of its application conditions. How we use a word is also sometimes determined, as argued above, by shared assumptions about the nature of the corresponding kind which qualify the application of the relevant conventions in hard cases. If the point of conceptual analysis is to ascertain whether there are any such assumptions in a hard case, as argued in this essay, then it is false, contra Quine, that its point is to identify *analytic* truths – i.e. claims that are true *by definition* or *in virtue of meanings*.

There is nothing problematic about the project of conceptual analysis as conceived by MCA. MCA is concerned to explicate the content of *our* practices pertaining to the use of a term, which are determined by our semantic conventions for using it and certain shared assumptions, if any, about the nature of the corresponding kind that qualify the application of these conventions in hard cases. If the concepts of a convention and constitutive property are, as appears plausible, coherent and refer to existing kinds, the concept of a conceptual practice is also coherent and refers to some existing kind. Quine's arguments might succeed in problematizing our conceptual practices pertaining to the terms *meaning* and *definition* – though I see no reason to think that is true. However, they fail to problematize the project itself. It is obvious there are conceptual practices warranting philosophical explication, like those defining our concepts of mind, law, and free will.[54]

And, perhaps surprisingly, there is little reason to think that Quine would find fault with the analysis here. MCA assumes (1) that the structure of world of our experience is a continuing social construction determined by the framework we impose on the world with our conceptual practices and (2) that it evolves as these practices evolve. Indeed, it should be emphasized here that Quine himself defends this view in *Two Dogmas*:

> The totality of our so-called knowledge or beliefs, from the most casual matters of geography and history to the profoundest laws of atomic physics or even of pure mathematics and logic, *is a man-made fabric* which impinges on experience only along the edges. Or, to change the figure, total science is like a field of force whose boundary conditions are experience. A conflict with experience at the periphery occasions readjustments in the interior of the field. Truth values have to be redistributed over some of our statements. Re-evaluation of some statements entails re-evaluation of others, because of their logical interconnections – the logical laws being in turn simply certain further statements of the system, certain further elements of the field. Having re-evaluated one statement we must re-evaluate

[54] Moreover, it should be clear that getting clear on at least some of these concepts is socially important. If it is true, as is commonly believed, that we are morally accountable for our behavior only if we have free will, then we must get clear on the concept of free will. If we do not know what free will is, then we cannot know whether we may justly be held morally accountable for our acts. Similarly, if we do not know whether law is inherently coercive, we cannot articulate an informed theory of normative political legitimacy – at least not one that would apply to all systems that count as law. It is clear that substantive moral conditions of legitimacy depend on whether laws are enforced by coercive means.

> some others, whether they be statements logically connected with the first or whether they be the statements of logical connections themselves. But the total field is so undetermined by its boundary conditions, experience, that there is much latitude of choice as to what statements to re-evaluate in the light of any single contrary experience. No particular experiences are linked with any particular statements in the interior of the field, except indirectly through considerations of equilibrium affecting the field as a whole.[55]

Our conceptual practices as they pertain to the material world of our experience, as discussed in the last section, are best conceived as assuming a revisable theory about the nature of natural kinds as it is determined independently of our conceptual practices – i.e., as an immodest hypothesis about the *real* structure of the world.[56] We create the institutions we create because we believe they benefit the community; however, we adopt the natural-kind terms we adopt because we believe they accurately describe the material world as it really is. These decisions, as Quine observes, can be revised to accommodate recalcitrant experiences. However, the fact this may require "redistributing truth-values" over some set of related statements illustrates the flexibility of our conceptual practices – which assumes, of course, that these practices manufacture or *construct* our concepts.

Indeed, the idea that *our* conceptual practices can evolve in response to recalcitrant, or otherwise problematic, experience is not merely uncontentious; that idea comprises the theoretical foundation of conceptual engineering, a project of increasing philosophical and social importance.[57]

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[55] Quine (1951, 39). Emphasis added. Quine's analysis assumes that we can make these adjustments to the truth values of a statement. But this can be coherently done only to the extent that we can change the way we use the relevant words, which assumes that we can understand and explicate the application conditions for those words. And this entails, of course, that some form of conceptual analysis is viable.

[56] As long as our conceptual practices enable us to do what we contrive them to do, it does not matter from a practical point of view whether these hypotheses are true. What ultimately matters from this point of view is that the structure we impose on the world with our conceptual practices enables us to do things in the world that conduce to our wellbeing. For instance, even if it is true, as Descartes worried, that our perceptions are induced by an evil deceiver and unreliable, we are still managing to get by in the world being guided by our perceptual beliefs as they are structured by our concepts – or so it appears.

[57] Indeed, Quine's text associated with Note 55 presupposes the viability of conceptual *engineering*, which, as is discussed immediately below, assumes the viability of conceptual *analysis*.

As Chalmers describes the project, conceptual engineering comprises "the design, implementation, and evaluation of concepts ... [which] includes conceptual re-engineering (fixing an old concept)."[58] Conceptual engineering is concerned, then, to study our existing conceptual practices and to commend changes to improve them where change is believed to be necessary or expedient.

While there is nothing in the methodology of conceptual engineering that *explicitly* challenges *Two Dogmas*, the project of conceptual engineering assumes that conceptual claims can be fruitfully distinguished from nonconceptual claims, as argued in this essay. However, more importantly, the project of conceptual engineering assumes that conceptual analysis is not only possible but is also worth doing because the structure that we impose on the world with language can have morally problematic effects.

Regardless of whether we can explicate the concepts of meaning and definition with enough precision to satisfy Quine, it is clear that there are two kinds of *true* claim: (i) claims that are true wholly in virtue of how we use the constituent words (e.g., every bachelor is unmarried) and (ii) claims that are not true wholly in virtue of how we use the constituent words (e.g., some bachelors are tall). *Two Dogmas* might succeed in problematizing our conceptual practices regarding the terms *meaning* and *definition* – though I doubt this.[59] But it fails to problematize MCA.

That said, the point is not just that the project of conceptual analysis remains viable in the aftermath of *Two Dogmas*. It is that the increasing social importance of conceptual engineering show that conceptual analysis can be interesting and useful. Indeed, regardless of what one thinks about the debates about the utility of gender concepts, they are, on any plausible account of the notions, interesting, useful, and worth pursuing.[60] Quine's analysis will always be deservedly revered for its rigor, insight, and creativity. However, philosophy has begun to move away from *Two Dogmas* – and justifiedly so.

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[58] Chalmers (2020).

[59] This would make those terms suitable candidates for a conceptual re-engineering.

[60] Even if much of this debate is couched in immodest terms having to do with what is objectively, or really, true about gender, it is clear that our gender practices can have morally problematic implications. See Note 39, above.

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