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“Legal Agreements and the Capacities of Agents”

ABSTRACT: Most work at the intersection of law and the philosophy of action focuses on criminal responsibility. Unfortunately, this focus has been at the expense of reflecting on how the philosophy of action might help illuminate our understanding of issues in civil law. In this essay, we examine the conditions under which a party to a legal agreement is deemed to have the capacity required to be bound by that agreement in Anglo-American jurisprudence. We refer to this condition as the capacity condition. We show how recent work on the metaphysics of powers might help us in thinking about the metaphysics of intentional agency. We then apply the metaphysics of powers and intentional agency sketched to the philosophy of contracts and expose a lacuna in Anglo-American contract law by examining cases of persons in early adulthood who do not clearly satisfy the conditions requisite for them to satisfy the capacity condition. Finally, we recommend a solution that we argue is compatible with existing legal standards and will result in more consistency in how capacity is regarded and considered in contract law.

Wednesday, October 23, 6:30 pm, Henry Hudson Room (3rd floor Fontaine)  
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