

RESEARCH ARTICLE

The Procedural Nature of Moral Standing

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Abstract

Norms of standing are puzzling. Your friend asks you for a favor. In the past, that same friend has failed to grant you similar requests. It seems that under such conditions, you are allowed to disregard your friend's request as a reason for granting it, on the grounds that he lacked standing to make the request. Yet, given that friends' requests are reason-giving, your license to disregard that (valid) reason is mysterious. We aim to dispel this sense of mystery by conceptualizing standing norms as *procedural* norms. Procedural norms are second-order (outcome-neutral) norms about how to engage with other norms. And norms of standing are a particular type of procedural norm, namely procedural exclusionary permissions. More generally, understanding standing norms as part of the “procedural branch” of morality exemplifies how the interplay between substance and procedure can clarify and demystify certain puzzles of moral discourse.

1. Introduction

Sometimes, it is not one's place to use one's normative powers to give reasons to others. For example, when we are not in the position to make a request or to blame someone. The philosophical interest in this phenomenon, which is referred to as lack of “standing,” is relatively recent and has attracted broad interest in philosophical literature over the past decade. In legal discourse, the interest in standing is almost ancient, as the law has long incorporated principles of standing and has developed doctrines of standing regulating the capacity of parties to bring suit in court.¹ Perhaps most interestingly, over the past decade, social morality in the West has been exhibiting a growing focus on norms that empower as well as silence people from engaging in social practices, such as making certain claims, demands, interventions, observations, and suggestions, or in expressing condemnation or blame. For instance, at times we can seemingly gain or lose standing to participate in a social debate based not on the content of our intervention, but rather on facts about who we are, such as in terms of our social identity and

¹See, e.g., Woolhandler and Nelson *Does History Defeat Standing Doctrine*, 102 MICH. L. REV. 689 (2003).

status² or of our moral character.³ And, denying the standing of political rivals (mostly on grounds of claims of hypocrisy) has always held a place of prominence in politicians' rhetorical toolkit, which too has attracted philosophical reflection.⁴

Notwithstanding all this preoccupation with the normativity of standing and the philosophical progress already archived, certain questions regarding how to conceptualize and justify such norms remain puzzling and not entirely resolved.

Notice first that a lack of standing to perform certain actions does not necessarily disarm one's power to perform them. For example, it is widely held that even if one lacks the standing to blame, one still holds the normative power to do so.⁵ There might be cases discussed under the label of "standing" to ϕ (where " ϕ " stands for some action or reactive attitude) in which lack of standing does disarm the power to ϕ . For example, Fritz and Miller have recently argued that, unlike the case of "standing to blame," in the case of forgiveness one cannot successfully forgive if one lacks the standing to do so.⁶ In this paper we analyze the phenomenon of "standing" of the former type, making no claim on capturing all uses of the term. More specifically, we focus on the case of standing to give reasons and explore the norms of standing governing the response of the addressee to a reason that was given without standing. Accordingly, using a legal analogy, we are interested in cases analogous to doctrines of legal standing under which courts deny a claim for reasons that have to do with the claimant, *not* with the merits of her claim.

Lack of standing to give reasons can appear paradoxical. Standing norms entail that even if one party holds the normative power to give a reason to another party if the former lacks the standing to issue that reason, then the latter can disregard it.⁷ But this is *prima facie* puzzling—if the reason is valid and if one holds the normative power to issue it, how is it also OK to disregard it? Our primary aim here is to dissolve this puzzlement.

Consider the following case (the "Airport Example"). A friend asks you a favor, such as to drive her to the airport. Typically, a friend's request is considered a reason to grant the favor. Still, if in the past this friend was unjustifiably reluctant to grant you similar requests, it is seemingly acceptable for you to deflect such a request as a reason for granting it. Yet, although this judgment can appear instinctively true, upon further reflection something in the example seems off: if my friend's request is indeed reason-giving, how is it morally appropriate to disregard it? In other words, morality, under our account of standing norms, seems to hold the stick from both ends—providing both for a normative power to give reasons as well as providing for disregarding those reasons.

²See, e.g., Argetsinger *Blame for me and Not for Thee: Status Sensitivity and Moral Responsibility*, 25 ETHICAL THEORY & MORAL PRAC. 265 (2022). Argetsinger relates standing to blame to social status, arguing that the socially powerful ought to blame those with less power less frequently.

³See, e.g., Todd *Let's See You Do Better: An Essay on the Standing to Criticize*, 10 ERGO 1158 (2023), defending the view that "One must: criticize x with respect to standard s only if one is better than x with respect to standard s."

⁴See, e.g., O'Brien and Whelan *Hypocrisy in Politics*, 9 ERGO 63 (2023).

⁵See, e.g., Fritz and Miller *A Standing Asymmetry Between Blame and Forgiveness*, 132 ETHICS 759 760 (2022); Herstein *Understanding Standing: Permission to Deflect Reasons*, 174 PHIL. STUD. 3109, 3111–3123 (2017).

⁶Fritz and Miller 2022.

⁷See, e.g., Statman *Why Disregarding Hypocritical Blame is Appropriate*, 36 RATIO 32 35–37. (2023).

We argue that the best and, indeed, arguably, the only way to dispel this sense of mystery is to conceptualize standing norms as *procedural* norms. We suggest that procedural norms are outcome-neutral second-order norms about how to engage with other norms. And we argue that norms of standing are a particular type of procedural norm, namely procedural exclusionary permissions. More generally, understanding standing norms as part of the “procedural branch” of morality exemplifies how the interplay between substance and procedure can clarify and demystify certain puzzles of moral discourse.

The discussion proceeds as follows. [Section II](#) briefly presents the general idea of standing to give reasons. [Section III](#) introduces our conception of procedural norms as outcome-neutral second-order norms about how to engage with other norms. Then, [Section IV](#) presents our account of standing norms as procedural norms—namely, as procedural exclusionary permissions to exclude from moral deliberation reasons that were issued without standing. [Section V](#) presents an argument for the elimination of alternative accounts of standing, concluding that if norms of standing exist, then they must be procedural. [Section VI](#) is devoted to a more positive approach to shoring up our conception of standing. We first introduce an argument from analogy to the law and then proceed to argue that moral norms of standing—understood as procedural exclusionary permissions—can be grounded in familiar moral values, such as fairness, autonomy, and the integrity of valuable institutions. Finally, the paper closes with a response to the objection that our story about the moral grounds of standing norms as procedural exclusionary permissions commit the fallacy of wishful thinking.

II. Norms of Standing

A. *Standing to What?*

There are many instances of “standing” individuated by the type of thing that one has (or lacks) standing to do. Standing propositions are of the form “S has/lacks standing to ϕ ,” where “S” stands for the agent (whose standing is at stake) and “ ϕ ” stands for certain types of actions or reactive attitudes. For example, there is standing to advise, complain, criticize, condemn, hold accountable, praise, petition, command, represent, and more. In the literature, certain instances of standing have attracted significant attention. Particularly central is “standing to blame.”⁸ For example, if Jack regularly lies to his friends, it seems unfitting for Jack to blame his friend Jill for doing the same to him, even if Jill is in fact blameworthy for lying to Jack. Another example of standing involves forgiveness.⁹ For example, Jack wrongs Jill. Can Jill’s father forgive Jack for that wrong? Some believe that only Jill—who is the victim—has standing to forgive Jack. In contrast, others argue that certain nonvictims—such as the victims’ relatives—also have

⁸Among recent examples see Fritz and Miller *Hypocrisy and the Standing to Blame*, 99 *Pac. Phil. Q.* 118 (2018); Todd 2019; Edwards *Standing to Hold Responsible*, 16 *J. MORAL PHIL.* 437 (2019); Piovarchy *Hypocrisy, Standing to Blame and Second-Personal Authority*, 101 *PAC. PHIL. Q.* 603 (2020); Lippert-Rasmussen *THE BEAM AND THE MOTE*, 10–151, (2024).

⁹See, e.g., Zaragoza *Forgiveness and Standing*, 84 *PHILOSOPHICAL & PHENOMENOLOGICAL RES.* 604 (2012); Pettigrove *The Standing to Forgive*, 92 *Monist* 583 (2014); Snedegar *Explaining Loss of Standing to Blame*, 1 *J. Moral Phil.* 1 (2023); Lippert-Rasmussen 2024, at 179–206.

standing to forgive.¹⁰ Requests can also raise issues of standing.¹¹ For example, Jill asks Jack to accompany her to dinner with her family. Jack refuses on the grounds that Jill herself regularly avoids Jack's family gatherings. Standing to punish is yet another type of standing norm discussed in the literature.¹² For example, Jack's child misbehaves. Jack's friend then "grounds" the boy. Jack objects to his friend punishing his child, not because the child is not deserving of punishment, but because normally only a child's parents are allowed to punish him. Standing to praise has also attracted recent attention.¹³

Law offers its own examples of standing. For instance, in the U.S., standing to challenge governmental action in Federal Court requires petitioners to demonstrate that they have a sufficient stake in the dispute; that is, that they have suffered a concrete and particularized actual or imminent invasion of a legally protected interest. In the U.S., a watershed case in this regard was *Lujan v. Defenders of Wildlife* 1992,¹⁴ where Defenders of Wildlife sued the Secretary of the Interior under the *Endangered Species Act* yet, lost on the grounds of lack of standing. The Supreme Court found that Defenders of Wildlife's claim was based on speculative environmental harms, rather than on "actual or imminent invasion of a concrete and particularized interest of the plaintiffs." Similarly, in the U.K. standing to bring a petition for judicial review turns on showing "sufficient interest in the matter to which the application relates."¹⁵ Private law also exhibits examples of standing doctrines, such as doctrines determinative of who can bring a claim that courts ought to, as a matter of law, assess on its merits.¹⁶

B. Grounds of Standing Norms

Norms of standing typically turn on and are justified by certain sets of facts, determinative of whether or not and of why one has standing to ϕ . Such sets are composed of facts about the agent, including, for example, circumstances of hypocrisy, status, and meddling. Returning to the examples above, that Jack lacks standing to blame Jill for lying to him turns on the fact that doing so would be hypocritical. Likewise, the reason why only Jack is allowed to punish his child is his parental status.¹⁷ Similarly, the reason that Defenders of Wildlife were found not to have standing before the court was that they lacked a sufficient interest in the matter, suggesting that they were meddling in something that was not "their business." Of

¹⁰See, e.g., Chaplin *Taking it Personally: Third-Party Forgiveness, Close Relationships, and the Standing to Forgive*, 9 OXFORD STUD. NORMATIVE ETHICS 73 (2019).

¹¹See, e.g., Herstein 2017; Schaber *The Reason-Giving Force of Requests*, 24 ETHICAL THEORY & MORAL PRAC. 431, 437, (2021).

¹²See, e.g., Tadros *Poverty and Criminal Responsibility*, 43 J. VALUE INQUIRY 391 (2009); Duff *Blame, Moral Standing and the Legitimacy of the Criminal Trial*, 23 RATIO 123 (2010); Edwards 2019, at 445.

¹³Telech, *Standing to Praise*, EUR. J. PHIL. (2024); Lippert-Rasmussen 2024, at 152–178.

¹⁴*Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992).

¹⁵Section 31:3 of the *Senior Courts Act* 1981.

¹⁶See Herstein 2011; Liao *STANDING IN PRIVATE LAW: POWERS OF ENFORCEMENT IN THE LAW OF OBLIGATIONS AND TRUSTS* (2023).

¹⁷In fact, the law recognizes parental privilege in punishment. For instance, in some jurisdictions parents and guardians hold (within limits) a special privilege to discipline their minor child. See e.g., *Commonwealth v. Dorvil*, 472 Mass. 1, 32 N.E.3d 861 (2015).

course, hypocrisy, meddling, status, etc. are not foundational values, suggesting that they are not the *ultimate* justifiers of standing norms. Indeed, although instructive, concepts such as hypocrisy or meddling are likely more intermediate values, calling for further normative extrapolation.¹⁸

C. Standing to Give Directed Reasons

We focus on standing to give directed reasons, which is a category that covers many instances of the paradigmatic cases of standing, such as standing to blame, request, or forgive. All these involve communicating something, such as a request, that generates a directive reason in the addressee. Here we stipulate that the term “directive reason” refers to reasons that one agent (the “directing agent”) intentionally generates for another (the “addressee”) through a directive communication. Further, a directive reason is a reason to somehow respond (through, for example, acting) to a directive (e.g., locutions of blaming, requesting, or forgiving) *because of the directive itself*.¹⁹ For example, a request is a directive that constitutes a reason to grant the request because of the request.

In our view, standing norms bear both on the giver of a directive-reason as well on its addressee; regulating who may or ought not to give such a reason, as well as how the addressee of such a reason may or ought to engage with it. Thus, firstly, when lacking standing—such as for reasons of hypocrisy, meddling, or lack of requisite status—it seems *pro tanto* wrong for the agent to issue the directive. Furthermore, this wrong appears relational—that is, the agent seems to (*pro tanto*) wrong the addressee.²⁰

Secondly, standing norms permit the addressee of a directive—if issued without standing—to deflect it. Here “deflection” of a reason means rejecting a reason off hand. Notice that standing norms do not impact other (nondirective) reasons that an addressee of a directive to ϕ has to ϕ . That is, the fact that an agent directed me to ϕ without the requisite standing to do so does not entail that I ought not to ϕ nor that I have no reason at all to ϕ , only that I ought not to ϕ because of the directive.²¹

¹⁸Here are just a few examples. Some argue that hypocrisy violates the principle of equal moral status of persons (Wallace *Hypocrisy, Moral Address, and the Equal Standing of Persons*, 38 PHIL. & PUB. AFF. 307 (2010); Fritz and Miller 2018). Others view hypocrisy as a form of unjustified evaluative discrimination (Friedman *How to Blame People Responsibly*, 47 J. VALUE INQUIRY 271 (2013)). Yet another view of hypocrisy focuses on the hypocrite’s failure of reciprocity in moral self-scrutiny (Roadevin *Hypocritical Blame, Fairness, and Standing*, 49 METAPHILOSOPHY 137 141–146 (2018)). And, Gerald Dworkin argues that hypocritical blame derails blame’s potential to impact others’ conduct (*Morally Speaking*, in REASONING PRACTICALLY (Edna Ulmann-Margalit ed., 2000) at 184–187). Regarding meddling, Herstein suggests that, depending on the circumstances, “minding one’s own business” can serve values such as privacy and personal autonomy (2020 at 8–9); and, Radzik argues in favor of minding your own business on the ground of personal development (*On Minding Your Own Business: Differentiating Accountability Relations Within the Moral Community*, 37 SOC. THEORY & PRAC. 574 (2011) at 593).

¹⁹Naturally not all attempts at giving directive-reasons succeed. There are conditions of “felicity” for blaming, condemning, forgiving, requesting etc. Our concern is not, however, with those conditions. We simply assume that some such locutions indeed give the reasons that they purport to give. On the pragmatics of directive see Searle and Vanderveken *Foundations of Illocutionary Logic* (1985), at 54–59.

²⁰There are various accounts of why interventions without standing are wrongful. Here we simply assume that they are. For discussion see e.g., Herstein 2020; Fritz & Miller 2018; Wallace 2010.

²¹Herstein 2017 at 3116–3118; Tognazzini *On Losing One’s Moral Voice*, <https://philpapers.org/archive/TOGOLO.pdf> (unpublished manuscript); Lippert-Rasmussen 2024 at 32–37.

Our focus here is on the nature of the deflection of directive reasons, as licensed by norms of standing; that is, we focus on how standing norms bear on addressees, rather than on directing agents. For purposes of brevity, unless indicated otherwise, the paper refers to “standing” norms only as norms directed to addressees of reasons issued without standing. We will develop the position that such deflections take the form of exclusionary permission, a position also put forward by one of us elsewhere.²² Building on a distinction between procedural and substantive standing norms, the crux of *this* paper is to argue that many standing norms take the form of not merely exclusionary permissions, but of *procedural* exclusionary permissions; and, that the validity of standing norms and the dissolution of the puzzlement with those norms is conditioned on their procedural nature.

III. Procedural Norms

As we maintain elsewhere, procedural norms are *second-order* norms bearing on *how to engage* with other norms.²³ Such norms share three interrelated key characteristics:

Firstly, *second-orderness*. Generally, second-order norms are norms about other norms (or about the reasons provided by those other norms). Accordingly, as second-order norms, procedural norms provide reasons relating to other norms. Generally, procedural norms set a normative framework for engaging with other (typically “substantive” first-order) norms.²⁴ “Engagement” here refers to any instance of responding to norms, such as deliberating on norms, applying norms, or forming norms. For example, rules of legal evidence instruct judges and juries on how to decide whether the relevant substantive legal norms have been violated, namely on which evidence courts may or may not rely on in making their substantive ruling (e.g., “guilty” or “not guilty” of some crime). More specifically, we hold that for second-order norms, the thing whose normative status is at stake is itself characterized in normative terms.²⁵ For example, “it is legally wrong to find a person liable for an action which is legally permissible,” is a second-order norm because the thing whose normative status is at stake—namely, the act of holding a person liable for an action which is legally permissible—is characterized in normative terms (“legally permissible”). More formally, second-order norms are expressible by sentences that include a *normative term* within the scope of a normative predicate or operator.²⁶ For example, in the aforementioned norm of legal liability the term “legally permissible” is embedded within the scope of the operator “it is legally wrong to ____.”

Secondly, procedural norms are about *how* to engage with other norms. What makes a second-order norm procedural, is that it provides reasons bearing on *how* one ought to engage with other norms. For example, rules of evidence instruct judges or jurors on what information they may or may not include when deliberating on how they ought to apply another (substantive) legal norm.

²²Herstein 2017.

²³For a fleshed-out account of our theory of procedural norms see Herstein and Malcai, *The Procedure of Morality*, 27 J. ETHICS & SOC. PHIL. 180 (2024).

²⁴For similar characterizations of procedural norms see Malcai and Levine-Schnur *Which Came First, the Procedure or the Substance? Justificational Priority and the Substance–Procedure Distinction*, 34 OXFORD J. LEGAL STUD. 1 (2014).

²⁵Malcai, *Second-Order Propositions and Metaethical Neutrality* (unpublished manuscript).

²⁶Examples of normative terms include “good,” “bad,” “right,” “wrong” and “permissible.”

Thirdly, procedural norms are *outcome-neutral*. They bear on *how* one ought to engage with other norms, not on the normative outcome of such engagement. For example, while rules of evidence can have a *practical* impact on the outcome of a legal case, they are in no way a *reason* in favor of one outcome or the other. Reflecting on the outcome neutrality of procedural norms helps clarify why not all second-order norms are procedural. For instance, while, as explained above, the norm “it is legally wrong to find a person liable for an action which is legally permissible” is a second-order norm, it is not outcome-neutral. On the contrary, it (normatively) mandates that courts rule in favor of defendants sued or prosecuted for doing what they are legally permitted to do (according to the relevant substantive legal norms, such as the norms of private law or criminal law).

IV. Standing as Procedural Exclusionary Permission

Our view is that many standing norms of the type briefly canvassed above are best understood as procedural. In a nutshell, they are second-order norms because they provide agents with reasons about other norms. And what makes those second-order norms *procedural* is that they are outcome-neutral norms about *how* to engage with other norms—as they do not directly bear on what one ought to do, but rather on the *process* of normative deliberation about other norms that *do* directly bear on what one ought to do.

Moreover, we believe that these standing norms are procedural norms of a certain type—they are procedural *exclusionary permissions*. Joseph Raz argues that certain norms are exclusionary, namely they are “second-order reason[s] to refrain from acting from some reason.”²⁷ Unlike first-order reasons (such as reasons for action or belief), on Raz’s account second-order reasons do not compete with first-order reasons, but rather regulate the exclusion of some such (first-order) reasons, regardless of the normative force of those reasons.²⁸ Exclusionary permissions, according to Raz, are also second-order; yet, unlike exclusionary reasons, exclusionary permissions are not reasons to refrain from acting for some reason but merely *permit* doing so.²⁹

As explained above, a key characteristic of standing norms is that the addressees of directives—such as blaming, condemning, requesting, commanding, or forgiving—can, in some sense, deflect or reject those directives. Returning to the Airport Example, given your friend’s hypocrisy—requesting that you drive her to the airport while she has been unjustifiably reluctant to grant you similar requests—you are permitted to deflect her request as a reason to act as requested.^{30,31}

²⁷Raz PRACTICAL REASONS AND NORMS (1990), at 39–40.

²⁸*Id.* at 36. Raz explains the structure of authoritative and promissory reasons in terms of exclusionary reasons. THE AUTHORITY OF LAW (1979), at, 37–52, 210–228.

²⁹Raz 1990, at 90, 94. Raz, for example, explains supererogation as a form of exclusionary permission. 1990, at 91–97.

³⁰Naturally you may have other reasons to grant the request than the request itself (i.e., than the mere fact that your friend asked). Hypocrisy-based norms of standing are inert as to such other reasons.

³¹We use the term “hypocritical” colloquially, without relying on a complete theory of this vice. For a discussion of different types of hypocrisy see Bell, *The Standing to Blame: A Critique*, in BLAME: ITS NATURE AND NORMS (D. J. Coates & N. A. Tognazzini eds., 2012)

But what is the nature of such permissions to deflect directives? We hold that the normative nature of such deflections can take one of two forms: procedural or substantive. If one has permission not to *act* on a reason, then it is substantive. In contrast, if one has permission not to *deliberate* on a reason, then it is procedural. For example, take supererogation. According to Raz, an act is supererogatory if one ought to perform it on the balance of reasons, and yet one is permitted not to act on the balance of reasons, as it pertains to that act.³² This account of supererogation is substantive: the second-order norm—the *permission* not to act on the balance of (first-order) reasons determinative of what *ought* to be done—does not bear on *how* to engage with those first-order reasons. Rather, it bears directly on the normative outcome regarding what one is permitted to do. Namely, this second-order norm permits acting against the balance of reasons. In contrast, were the norm procedural it would permit excluding from deliberation certain reasons in favor of an action, without having anything to say directly on the normative outcome of the deliberation, that is, on what one may or ought to do.

For an example of *procedural* exclusionary permission, consider the evidentiary legal doctrine of *relative* inadmissibility, which rejects the view that all illegally obtained evidence ought to be excluded. Rather, under a relative rule of inadmissibility courts have discretion in deciding whether or not to exclude such evidence.³³ This norm is second-order: courts are *permitted* to exclude illegally obtained (probative) evidence from the courts' deliberation on whether or not the defendant *ought* to be convicted (according to the relevant substantive norms of criminal law). This norm is about "the how": instructing courts on the process of deciding whether the relevant substantive norms of criminal law have been violated. Finally, it is outcome neutral: not bearing normatively on what verdict the court ought to reach, but only on how the court ought to engage with those norms of substantive criminal law that do determine the legal status of the defendant's actions.

Standing norms, at least those pertaining to directive-reasons, are *procedural* exclusionary permissions. Or so we will argue. Let us return to the Airport Example. The standing norm featured in the example takes the form of what we labeled above "procedural norm." Here it is in a generalized form:

H One is *permitted* to exclude reasons generated by a "hypocritical request" when deliberating whether one *ought* to act as requested.

H is a second-order norm, as the thing whose normative status is at stake ("to exclude reasons generated by a 'hypocritical request' when deciding whether one ought to act as requested") is itself characterized in normative terms ("*ought* to act as requested"). More formally, this norm is expressible by a sentence including a *normative term* ("*ought*") within the scope of a normative operator ("One is permitted to ____").

This second-order norm is procedural given that it bears on *how to engage* with another norm, namely on the decision-making process over whether *one ought to act as requested*. Finally, the norm is outcome-neutral. It does not bear directly on whether or not you ought to drive your friend to the airport, but only on how you are permitted to deliberate on whether or not you ought to do so. For instance,

³²Raz 1990, at 94

³³See, e.g., Yissacharov v. Chief Military Prosecutor CrimA 5121/98, 17.

notwithstanding your friend's lack of standing, under *H* her hypocrisy neither counts in favor nor against driving her to the airport. Moreover, despite her hypocrisy, it is still possible that you ought to drive her to the airport on the grounds of reasons other than her request. Such as her needs or even the fact that she is your friend.

V. Eliminating Alternative Accounts of Standing

We next argue in favor of our account of standing norms as procedural norms. We begin with an argument from elimination, dismissing (or weakening) competing accounts. This line of reasoning leads to a kind of “transcendental” argument; that is, if standing norms are possible, then they are necessarily procedural.

A. Undercutting

One may object to our characterization of standing norms as procedural exclusionary permission, claiming that lack of standing *undercuts* the mere normative power to issue directive reasons. For instance, in the Airport example, the objection is that the friend's hypocrisy completely annuls the normative force of the agent's request as a reason for granting it.³⁴ Accordingly, under this account, in uttering the request your friend simply fails to give you the reason that she is attempting to give.

This objection, however, fails to capture the fact that a “bad friend” is a friend nonetheless and, therefore, her requests are still reasons for action, and thus are not undercut by her hypocrisy. This reason is detectable phenomenologically, given that lack of standing is considered waivable. That is, you can *reasonably* deliberate on (and at times even act on) your friend's request—taking the request *itself* as your reason to grant it. Simply put, if asked why you drove your friend to the airport, there seems nothing unreasonable in answering that you did so “because she asked.” And, if it is reasonable to treat a hypocritical request as a reason bearing on one's moral deliberation in this way, it follows that such requests can be (valid) reasons for granting the request. Lack of standing, therefore, does not annul such moral address.

The interlocutor may insist, however, that your intuitive answer to the above question, that you drove your friend to the airport (also) “because she asked,” is confused. And that what really explains the reasonableness of granting your friend's request are reasons other than the request itself. For instance, her needs, protecting her feelings, or care for your friendship. Such additional reasons are not, however, necessarily present in the example. Perhaps, for instance, you know that your friend is not easily offended, your friendship is durable, and that she could easily take an Uber to the airport. Still, even in the absence of such reasons, it seems reasonable for you to drive your friend to the airport because she asked you. Thus, the fact that a request is hypocritical and, therefore, was issued without standing, does not completely undercut its normative force.³⁵

³⁴See, e.g., Dworkin *Morally Speaking*, in REASONING PRACTICALLY (Edna Ulmann-Margalit ed., 2000) at 184; Duff 2001 at 185–188; Cohen *Casting the first stone: Who Can, and Who Can't, Condemn the Terrorists?*, 58 ROYAL INST. PHIL. SUPPLEMENT 113 (2006); Smilansky, *The Paradox of Moral Complaint*, UTILITAS (2006); Scanlon *MORAL DIMENSIONS* (2008), at 175–176; Isserow and Klein *Hypocrisy and Moral Authority*, 12 J. ETHICS & SOC. PHIL. 191–198, 200–205 (2017). For a brief overview see Lippert-Rasmussen 2024, at 37–41.

³⁵For further elaboration on this line of argument see Herstein 2017, at 3119–3123.

B. Competing

Another alternative to our account is that standing norms function not as second-order procedural norms but as first-order substantive norms. That is, they give first-order reasons that count against complying with directive-reasons that were issued without standing. For example, the hypocrisy of a hypocritical request is a reason not to grant that request. This reason may or may not defeat reasons to grant that request; a matter that would depend on the balance of all the relevant first-order reasons, which include (among other possible reasons) the friend's request on the one hand and her hypocrisy on the other.

This objection also fails. Phenomenologically, it seems that standing typically figures in our deliberation as a threshold norm. For example, in turning down your friend's request to drive her to the airport on the grounds of her hypocrisy, you are not finding her hypocrisy a stronger reason than her request itself. Rather, it seems that once you identify the hypocrisy you take yourself at liberty—without further reflection involving weighting and balancing reasons—to simply disregard the request (as a reason for granting it).

Moreover, the competition view seems to rely on the premise that standing norms provide the addressees of directives with a *pro tanto* duty not to do as directed. Yet, *pro tanto* duties are seemingly un-waivable. And, the phenomenology suggests that even if a directive was issued without standing, one is still at liberty to act on it. But if this is so, it follows that standing norms do not provide *pro tanto* duties. For instance, in the Airport example, in what sense is it *pro tanto* wrong to do as your friend requests? Indeed, were one to delve into the substantive deliberation of weighing and balancing reasons, it is not even clear whether there is any moral reason—grounded in a friend's hypocrisy—*against* granting her request. After all, at least on the face of things, there does not appear anything morally wrong *per se* with doing that which the request requests. Finally, in some such cases it seems even virtuous to grant the request, notwithstanding the hypocrisy. That is, not only is there nothing necessarily wrong with it, often there actually seems something good in ignoring your friend's hypocrisy.

C. Altering Directive-Reasons

Another possible objection to our account is that the case of lacking standing involves a nonstandard type of first-order reasons. Namely, “enticing” reasons counting in favor of an action *without* also contributing to requiring or to obligating that action.³⁶ Thus, the objection goes, the simplest explanation of standing norms is in terms of such (substantive) enticing first-order reasons. Accordingly, standing norms alter directive-reasons issued without standing, somehow changing them from the more familiar form of obligating (or “preemptory”) reasons, to enticing reasons. For instance, perhaps your friend's hypocrisy entails that her request that you drive her to the airport counts in favor of you doing so, yet it lacks the bite of a *pro tanto*

³⁶For example, Jonathan Dancy distinguishes between what he calls “preemptory reasons” and “enticing reasons.” Enticing reasons count in favor of ϕ -ing without contributing to making it that one ought to ϕ . *Enticing Reasons*, in *REASON AND VALUE* (R. J. Wallace et al. eds., 2004, at 91). See also Gert *Normative Strength and the Balance of Reasons*, 116 *PHIL. REV.* 533 (2007). See also Cornell, *The Possibility of Preemptive Forgiving*, 126 *The Philosophical Review* 241 (2017).

obligation to do so. This presumably explains how it is that standing norms make directives deflectable. Yet, unlike our picture of standing, this alternative account manages to explain the normative landscape using only first-order reasons; a feature which arguably cuts in favor of this account, given its relative simplicity.

However, we find this account of standing in terms of enticing first-order reasons less convincing than our second-order procedural account. Firstly, it is doubtful whether our account really is inferior in terms of theoretical simplicity. It is unclear whether adding further (atypical) reasons to the already densely populated landscape of different types of reasons better serves parsimony than an account built on different orders of reasons.

More importantly, the very notion of a reason that is lacking in an ought-making feature, is controversial.³⁷ Reasons, by their very nature it seems, count in favor of Φ -ing. How then is it not the case that if you have a reason to Φ , then you *pro tanto* ought to Φ ? For example, if your friend's request counts in favor of driving her to the airport (despite her hypocrisy), how is it not the case that you *pro tanto* ought to do so? Indeed, from a phenomenological first-person perspective if, following moral deliberation, you arrive at the conclusion that given her request driving your friend to the airport is morally better than denying her request, then it seems plausible for you (a moral person motivated towards doing what is morally better) to conclude that you ought to grant your friend's request. Actually, this sense of obligation explains the understandable resentment that you may feel towards your friend for putting you in the position of feeling obligated to grant what is a hypocritical request.

D. Permitting First-Order Reasons

Another possible alternative explanation of how standing norms impact the normative landscape is that such norms provide first-order permitting reasons. That is, the fact that a directive is issued without standing to do so entails that the addressee of that directive has a *pro tanto* permitting reason to ignore that directive as a reason to do as directed. For example, your friend's hypocrisy in asking you to drive her to the airport counts in favor of you holding permission not to conform to her request.³⁸ And, depending on the overall balance of reasons, you can in fact hold such permission. The advantage of this account is that it captures the putative permissive quality of norms of standing (in relation to addressees) without resorting to the more complex explanation relying on norms of different orders. However, this account also falls short. Like enticing reasons, permitting reasons are nonstandard and, therefore, it is not clear that an account of standing based on such reasons is indeed simpler or more parasomnias than our account. After all, the notion of *pro tanto* permitting (normative) reasons is puzzling. On the standard understanding, normative reasons

³⁷ See, for instance, Broom, *Reasons*, in *Reason and Value: Themes from the Moral Philosophy of Joseph Raz* (R. J. Wallace et al. eds., 2004, at 39–41; Robertson *Not So Enticing Reasons*, 11 *ETHICAL THEORY & MORAL PRAC.* 263 (2008).

³⁸ We take "permission to ϕ " as the correlative of a "duty not to ϕ ." See Hohfeld *FUNDAMENTAL LEGAL CONCEPTIONS* (Walter Wheeler Cook ed., 1919).

count in favor of something.³⁹ That is, reasons guide agents as to how to act, how to feel, and what to believe. Accordingly, the idea of a permitting *reason* suggests itself as providing normative guidance. Yet, permission seems more the outcome of moral deliberation than a *pro tanto* reason doing normative work within moral deliberation. Thus, permitting reasons appear to lack the agent-guiding quality expected of normative reasons.

By way of demonstration, consider the following dilemma. You are deliberating whether or not to Φ . P is a *pro tanto* permitting reason to Φ . That is, P does not guide you either way as to whether or not you ought to Φ . Now, either there are additional reasons (other than P) counting in favor or against Φ -ing or there are no such additional reasons. If there are such reasons, then all things considered, you ought to act on the balance of those reasons (regardless of P); if there are no such additional reasons, you are permitted to Φ or not to Φ (also regardless of P). Either way, P does not provide you with any normative guidance. Making the notion of permitting reasons practically inert.

E. Comparativism

Another view of standing norms as first-order substantive norms can be extrapolated from Ruth Chang's general view of practical reason, namely about what grounds what one has most or sufficient reason to choose.⁴⁰ Chang argues that a choice is rational in virtue of the "[c]omparative facts about the strengths of the reasons for and against the options with respect to what matters in a well-formed choice situation."⁴¹ Briefly, "a well-formed choice situation" arises where there is a determined set of alternatives and background circumstances.⁴² Chang's Comparativism is very close to the principle that: "[i]t is always the case that one ought, all-things-considered, to do whatever one ought to do on the balance of reasons."⁴³

A challenge to Comparativism is that sometimes the ground of rational choice seems more complex or layered than what is captured by comparative facts about the strength of the reasons for and against each of the alternatives. For instance, as Chang explains, certain considerations are often seemingly not outweighed but rather are pre-empted, braked, disabled, or excluded, rendering them "irrelevant" to the choice at hand. When that is the case, rational choice does not turn on the comparison of the strength of reasons.

Chang responds that this worry for Comparativism fails to distinguish between two different questions: (1) what grounds a rational choice within a well-formed choice situation and (2) what determines which well-formed choice situation one should be in?⁴⁴ According to Chang, so-called "exclusionary reasons" are actually "ordinary" reasons pertaining to one or the other of these questions. That is, they are either reasons about what to choose within a well-formed choice situation (i.e., they are not second-order exclusionary reasons) or, more typically, they are reasons about

³⁹ Alvarez *Reasons for Action: Justification, Motivation, Explanation*, in THE STANFORD ENCYCLOPEDIA OF PHILOSOPHY (Edward N. Zalta ed., Winter 2017), <https://plato.stanford.edu/archives/win2017/entries/reasons-just-vs-expl/>.

⁴⁰ Chang, *Comparativism: The Grounds of Rational Choice*, in WEIGHING REASONS (E. Lord and B. Maguire eds., 2016).

⁴¹ *Id.*, at 215.

⁴² *Id.*

⁴³ *Id.*, at 223.

⁴⁴ *Id.*

which well-formed choice situation one ought to be in (again, not a second-order exclusionary reason). And since, according to Chang, rational choice is always relative to a well-formed choice situation, “the very idea of an exclusionary reason is otiose.”⁴⁵

Chang uses a hypothetical of Raz’s to demonstrate her position. You receive a lengthy prospectus on a company that you have an urgently expiring opportunity to invest in. Yet, you are too tired to properly examine the prospectus in the allotted timeframe. According to Raz, while you have a reason to examine the prospectus, your fatigue is the reason for you to exclude that reason. Chang describes Raz’s scenario as involving a choice of whether or not to invest. She explains, however, that that choice is not a “well-formed choice situation.” This is because there are two ways not to invest: going directly to bed or deliberately deciding not to invest based on the merits. Accordingly, there is a preliminary normative question: which choice situation should you be in? And, Raz’s so-called “exclusionary reasons” pertain to this preliminary question. Thus, the fact that you are too tired to properly examine the prospectus is a reason not to be in a choice situation in which you must decide whether or not to invest. More generally, difficulty in assessing reasons relevant to a choice is not (second-order) reasons to exclude those reasons, but rather a (first-order) reason not to be in the choice situation requiring making such assessments.

Chang’s view, therefore, poses a threat to our account of standing norms as exclusionary permissions. In her approach, standing norms presumably direct which well-formed situation one ought to be in, rather than a reason to exclude relevant reasons within an *already* well-formed choice situation.⁴⁶ An analogy to the law seemingly offers further support to this objection. In law, lack of standing usually blocks a claim from being considered on the merits. That is, legal claims issued without standing are not even relevant to (the judge’s) choice situation. The objection concludes that also in the moral context we do not need an explanation (e.g., in terms of exclusionary norms) for why the addressee may ignore reasons issued without standing.

Our response to this challenge is that Comparativism just does not capture the normativity of standing norms. To see why, let us return to the airport example. Presumably, according to Comparativism, my friend’s hypocrisy is a reason to be in a different choice situation (of those open to me) in which the request is irrelevant and, therefore, ignorable.⁴⁷ However, while at times the notion of a reason not to be in a certain choice situation is perfectly plausible, such as a reason not to answer my friend’s phone call and thereby deny her the opportunity to make her request in the first place, this is not the case in our example; where the request remains “relevant” regardless of whether I make a choice to ignore it.

More generally, agents are sometimes thrust into choice situations. In cases of standing, the reason that was issued without standing is already “out there.” For example, when a friend hypocritically asks me to drive her to the airport, it seems that I am in a well-formed choice situation: I can either drive my friend to the airport or not. A choice I must make on the backdrop of a reasonably determined set of facts

⁴⁵*Id.*, at 223, 225.

⁴⁶We ascribe this view to Chang based on her comments to this paper.

⁴⁷Another option is that hypocrisy is a reason within a well-formed choice situation not to drive her to the airport. We discuss this option in Section B, explaining why standing norms are not best explained in terms of first-order reasons.

such as, for instance, the history of our friendship, the proximity to the airport, or the fact that I own a car. Accordingly, telling myself that I can ignore my friend's request as "irrelevant" by choosing a choice situation that does not include the request seems like self-deception. As a moral matter, the moral relevancy of the request is not determined by norms about the appropriate choice situation. There is something suspect about the notion of a norm that somehow directs agents to make (valid) reasons "irrelevant." Reasons to ϕ are, by their nature, relevant to whether or not one ought to ϕ . Indeed, this is exactly what makes standing norms puzzling—how is it that one may deflect (valid and morally relevant) reasons?

Comparativists may insist that in the airport example, *there is an alternative* choice situation that does not incorporate the hypocritical request (i.e., an alternative to the above choice situation whether or not I ought to drive my friend to the airport). Namely, a choice regarding which reasons should be included in the *deliberation* about whether or not I ought to drive my friend to the airport. On this suggestion, I have permission to be either in a choice situation in which the request is relevant, or in a choice situation in which the request is irrelevant and, therefore, does not feature as a reason in my deliberation on whether or not to drive my friend to the airport. Thus, the Comparativist's objection would go, that standing norms—being norms about choice situations (rather than about other norms)—operate as first-order norms governing (the action of) moral deliberation.

However, in this interpretation, Comparativism seems very close to our own view, and the difference between them seems merely terminological. Indeed, if I use my permission, the request becomes *practically irrelevant* to the deliberative process and, therefore, it is not irrational to ignore it while deliberating. And still, at any point in time, the request does not lose its *moral relevancy*. This account of the normativity of standing seems very close to our account based on exclusionary permissions: a choice not to incorporate a relevant (valid) reason in one's practical deliberation.

Moreover, the moral grounds for *permission to exclude a reason* from deliberation are presumably similar to the moral grounds of *permission to choose a choice situation* in which a morally relevant (valid) reason is absent from deliberation. Similarly, any explanation for why I have moral permission to exclude the (morally relevant) reason from deliberation, would likely be equivalent to the explanation for why I have moral permission to be in a choice situation in which that reason is practically irrelevant to the deliberation (despite its moral relevancy).

Their similarity notwithstanding, our account in terms of exclusionary permission is explanatorily superior to Comparativism, better capturing the nature of the normativity of standing. Notice firstly, that both our and the Comparativist account of standing norms fall under our definition of second-order norms. Yet, only our account is explicit about this essential feature of standing.⁴⁸ As we argue, standing norms have the property of "second-orderness" since the thing whose normative status is at stake is characterized in moral terms. In that respect, "[excluding the request from the deliberation about whether I *ought* to drive my friend to the airport] is *permissible*," is equivalent to "[c]hoosing a choice situation in which the request is irrelevant to the deliberation about whether I *ought* to drive my friend to the airport] is *permissible*." As both formulations of the action (what appears within the

⁴⁸Indeed, Chang argues that second-order exclusionary reasons are dispensable for practical reason.

parenthesis) include a normative term (“ought”) within the scope of the normative predicate “[...] is permissible.”

Less formally, in governing the appropriate response to reasons issued without standing, standing norms—by their very nature—bear on other reasons. And, therefore, are best explicated as “second-order norms,” such as exclusionary permissions. Indeed, whether or not standing norms are formulated in terms of permission to exclude a reason from deliberation, or in terms of permission to choose a choice situation in which that reason is practically irrelevant, the *justification* of standing norms is invariably related to *that reason*. After all, the whole puzzle of standing norms revolves around the justification of deflecting morally relevant reasons. For example, any justification for my permission to disregard my friend’s request to drive her to the airport must somehow related to the properties of the reason issued without standing, namely to the request. The notion that such a justification would relate only to what choice situation one ought or is permitted to be in, and not to the *reasons* inhabiting that situation, seems implausible. Thus, an account of standing norms as second-order norms is better reflective of their moral structure.

F. Substantive Second-Order Norms

Accepting the view that conditions of lack of standing somehow make directives deflectable, why not hold that standing norms *permit* addressees *not to act* on those directives? For example, given your friend’s hypocritical request (to drive her to the airport) you are permitted not to act on that request as a directive reason for granting it. On such an account, standing norms are second-order, as they are for other reasons (the request). Yet, in contrast to our account, here standing norms are substantive rather than procedural; as they bear directly on the normative outcome. Namely, they bear on what one is obliged or permitted to *do* given the relevant reason; not on *how* one is obliged or permitted to engage (in this case to *deliberate* on) with those reasons.⁴⁹

To demonstrate the distinction, let us juxtapose norms of supererogation with norms of standing. As suggested above, norms of supererogation are second-order *substantive* norms. In cases of supererogation, when confronted with reasons to sacrifice one’s interests for the benefit of others, norms of supererogation permit one not to do so, even if it would be better on the balance of (first-order) reasons. In such cases, the permission to act against the balance of reasons appears internal to one’s deliberation as to how one ought to act. Consider, for example, highly costly altruistic behavior, such as jumping on a live hand grenade in order to save the lives of others.⁵⁰ Such self-sacrifice is morally praiseworthy, yet one is permitted not to do so.

⁴⁹As detailed above, Raz’s account of exclusionary permissions explicitly characterizes them in terms of a permission not to *act* on some other reasons. Under the distinction we offer here, this would categorize Raz’s account as “substantive.” This is perhaps unsurprising, given that his primary example of an exclusionary permission is of norms of supererogation, which, as explained, are “substantive” norms bearing on what one is obliged or permitted to *do*. That said, Raz does not tackle the distinction between “substantive” and “procedural” norms in his discussion of exclusionary permissions; making it difficult to ascribe him with a clear position on the distinction.

⁵⁰The example is based on the stories of Nathan Elbaz, Roi Klein, Matan Abergil, Netta Epstein, Aner Shapira, and Gil Tasa.

In contrast, norms of standing, we argue, are external to one's practical deliberation in the sense that they are not about what one is permitted to do all things considered, but about how one is permitted to *deliberate* on what one is permitted to do all things considered. Namely, what reasons one is permitted to exclude from deliberation *ex ante*. For example, you are permitted to simply exclude from deliberation your friend's hypocritical request to drive her to the airport, and to consider only reasons other than her request itself (e.g., her needs, feelings, and the fact that she is, after all, a friend) when deciding whether or not to drive her to the airport.

Were they *substantive* exclusionary permissions, standing norms would have entailed curious cases, involving a permission not to act on a reason that is pivotal for tipping the balance of reasons. This becomes apparent when taking the first-person perspective of the addressee of a directive issued without standing. Let us return to the airport example, in which we argued that a friend's hypocritical request still carries some normative force. If you conclude that it is morally better to drive your friend to the airport, then arguably you ought to do so. Yet, under the "substantive exclusionary permission" account of standing, you are permitted not to *act* on your friend's hypocritical request, *even when* that request tips the balance of reasons towards the conclusion that you ought to do so. Such permission not to do what one ought to do all things considered seems conceptually dubious and even contradictory.

The interlocutor might object that a similar paradox arises also in the case of supererogation, and if one is permitted to act against the balance of reasons in cases of supererogation why is the same not true of cases of standing? Yet, in contrast with the case of supererogation, where the permission not to act on the balance of reasons is typically baked into the very idea of supererogation, the same appears implausible with regard to standing. Unlike cases of standing, cases of supererogation paradigmatically involve the specter of overly demanding moral duties. For instance, arguably one is permitted not to sacrifice oneself to save others— even if it would be better on the balance of reasons.⁵¹

In sum, understanding standing norms as *substantive* exclusionary permissions implies that such norms are invalid, entailing that if we are correct in characterizing norms of standing as norms of exclusionary permission, they must be procedural.

G. Conclusion: "The Transcendental Argument"

The above argument from elimination, which ruled out *substantive* accounts of standing norms, supports a kind of "transcendental argument" in favor of viewing standing norms as *procedural* exclusionary norms. That is, if standing norms are possible, then they are necessarily procedural. We concede that like all arguments from elimination, the strength of our argument depends on the possibility of other

⁵¹The scope of "supererogation" can, at least under some accounts, incorporate cases that do not involve heroic or saintly self-sacrifice, such as minor supererogatory acts of kindness or generosity. Trianosky, *Supererogation, Wrongdoing and Vice: On the Autonomy of the Ethics of Virtue*, 83 J. Phil 26 (1986); See Montague *Acts, Agents, and Supererogation*, 26 AM. PHIL. Q. 100 107–108 (1989); Benn *THE EVALUATIVE CONDITION FOR SUPEREROGATION*, HANDBOOK OF SUPEREROGATION (D. Heyd ed., 2023). That said, overly demanding moral duties are typically a core feature of the category of supererogatory. See Urmson *Saints and Heroes*, in *ESSAYS IN MORAL PHILOSOPHY* (A. I. Melden ed., 1958); See generally Heyd *Supererogation*, in *THE STANFORD ENCYCLOPEDIA OF PHILOSOPHY* (Edward N. Zalta ed., Winter 2019), <https://plato.stanford.edu/archives/win2019/entries/supererogation/>.

accounts of standing not canvased above. Moreover, as some of our arguments against alternative accounts of standing rely on phenomenology, we acknowledge that intuitions may differ.

Substantive accounts seem to color standing practices as irrational; depicting them as entailing liberty to do what one ought not to do. The advantage of the procedural account is that it seems to evade this implication that flirts with contradiction. A permission to exclude directive reasons (issued without standing) from normative deliberation, frees the addressees of such directives from the rational tension involved in deliberating and in then deciding to act against the balance of reasons. That is, under a procedural account, wherein the exclusion is external to one's practical deliberation regarding what one ought to do (as opposed to how one ought to deliberate on what one ought to do), this rational tension does not arise. Thus, we believe that one must choose between giving up on standing norms or accepting their explication in procedural terms.

The interlocutor may object that if standing norms are invalid as (substantive) exclusionary permissions not to *act* on the balance of reasons, why think that they are valid as (procedural) permissions to *exclude* (valid) reasons from one's *deliberation* on how one ought to act? In other words, assuming, for example, that hypocritical requests generate directive reasons, how is it that one is permitted to exclude them from normative deliberation? Are we not merely exchanging one paradox for another?

Not exactly. Phenomenologically, while there is an obvious moral tension in knowingly *acting* against what the balance of reasons requires, that tension is far less pronounced when excluding reasons from *deliberating* on how one ought to act.

Normatively, while in general, it seems wrong to knowingly act against the balance of reasons,⁵² very often there is nothing wrong in not *deliberating* on all reasons. For instance, it is regularly impossible to deliberate on *all* the relevant reasons. In fact, deliberating on all the relevant reasons does not necessarily guarantee that the deliberator will arrive at the correct practical conclusion. In fact, we regularly rely on deliberative heuristics that rule out certain relevant reasons. Indeed, over-deliberation and "reason overload" is at times counterproductive.

But what about cases where full (or nearly full) deliberation *is* possible and even productive, such as in the airport example? As we argue elsewhere (unrelated to the matter of standing), there are justifications for excluding reasons from deliberation that do not fold out of the shortcomings of human practical rationality.⁵³ Below, we offer such justifications for *permissions* to exclude certain relevant reasons in the instance of lack of standing.

VI. Normative Grounds of Standing Norms

We claimed that if standing norms are possible, then they are necessarily procedural. But, do standing norms—understood as procedural exclusionary permissions—ever exist; that is: are standing norms morally valid? More specifically, does issuing a directive without standing ever permit the addressee of that directive to exclude it from her deliberation?

⁵²Putting aside cases of supererogation.

⁵³Herstein and Malcai 2024 at 194–199.

Generally, a theory of moral standing is part of nonideal moral theory. Ideal moral theory assumes that all moral agents comply with moral reasons and, therefore, would not include norms of standing. This is because a key feature of norms of standing is that they apply to conditions of abuse of normative power; namely, issuing directive-reasons inappropriately. And in ideal theory, no such abuse occurs.

We argue that it is *procedural exclusionary norms* of standing that best “respond” to the nonideal reality of such abuse of normative power. As detailed above, a *substantive* exclusionary “response” to directive reasons issued without standing seems muddled, as it permits not to act on valid and even conclusive reasons. The “procedural shift” from not acting on the balance of reasons towards excluding reasons from deliberation avoids this muddle, while still “countering” the abuse of normative power.

Yet, putting the transcendental argument aside, even if it is true that moral standing norms are possible only as procedural norms, are such norms justified? That is, does the abuse of normative power typical to cases of lack of standing, indeed justify a permission to exclude (valid) reasons from deliberation? Below, we offer a handful of possible justifications for standing norms understood as procedural exclusionary permissions.

A. Analogy to Law

A good starting point for thinking about the justification of standing norms is the law. Given that legal norms of standing are widely considered part of law’s procedural branch, and considering that legal norms are typically refined over centuries with the aspiration of doing justice, a fruitful methodology for exploring the grounds of moral standing norms is to begin with their legal counterparts. Moreover, standing norms in law that are justified as *procedural* exclusionary norms give reason to expect that the same is true of standing norms in morality.

Legal norms exhibiting the structure of standing include *laches*,⁵⁴ the *unclean hands defense*,⁵⁵ and *in pari delicto*.⁵⁶ All three doctrines provide courts with the power to deny claims without deliberating their merits, turning rather on some misconduct of the plaintiff. Using our terminology here, these doctrines provide courts with procedural exclusionary permissions to reject—offhand—certain claims from substantial judicial deliberation.

Let us focus on the clean hands defense, which is predicated on the maxim “that he who comes into equity must come with clean hands or be denied relief regardless of the merits of the claim.”⁵⁷ The term “unclean hands” refers to wrongdoing that is

⁵⁴Courts may deny relief to claimants with an otherwise valid claim given an unreasonable delay in bringing the claim, to the detriment of the defendant. See Dobbs LAW OF REMEDIES: DAMAGES - EQUITY - RESTITUTION (2d ed. 1993), at 103.

⁵⁵See, e.g., *McLaughlin v. McLaughlin*, 187 A.2d 905 (Pa. 1963).

⁵⁶Under *in pari delicto* (“in equal fault”), courts may deny granting a remedy on the grounds that both plaintiff and defendant stand in equal fault in relation to the wrong or unlawful transaction complained about. *In pari delicto* applies where a plaintiff’s culpability regarding a matter at issue is equal to or surpasses the defendant’s culpability. See Fischer UNDERSTANDING REMEDIES (2d ed. 2006), at 467–470.

⁵⁷*Precision Instrument Mfg. Co. v. Automotive; Maintenance Mach. Co.*, 324 U.S. 806 (1945); Dobbs 1993, at 68.

somehow related to the plaintiff's claim.⁵⁸ And while access to legal remedy does not require "that its suitors shall have led blameless lives ... it does require that they shall have acted fairly and without fraud or deceit as to the controversy in issue."⁵⁹

The clean hands defense thus empowers courts to reject claims, even if they are legally valid and predicated on legally recognized substantive rights. It exhibits, therefore, the same type of dilemma that we encountered in the analysis of norms of standing. Namely, dismissing valid substantive normative claims. Similarly to our account of standing norms, the clean hands defense resolves this dilemma by permitting courts to exclude those claims *ex ante*, that is prior to judicial deliberation on their merits.⁶⁰ So, had the claim of the plaintiff (whose hands are unclean) not been excluded on procedural grounds, the judge would have been rationally obligated to deliberate on the claim's substantive merits and possibly even to accept it.

A natural objection to analogizing law to morality is to point out the significant difference between these two normative domains, most notably the fact that law is inherently institutionalized, while morality is not. For instance, there are no "moral legislators," "moral courts," or "moral advocates." Thus, why assume that the justifications of legal norms would be applicable to moral norms, even if in those instances in which the norms share a similar structure?

Certainly, some justifications of standing doctrines in the law are "institutional" in a way that makes them unavailable to morality. For instance, many have argued that the clean hand doctrine is justified as an instrument for protecting the court's institutional integrity,⁶¹ by assuring that the court does not become "the abettor of iniquity."⁶² A prevailing view is that a court's integrity, as a court of justice, is compromised and that the court risks becoming marred by the hypocrisy of the litigant whose hands are "unclean."⁶³ And, one may object, it is doubtful whether the same justification is applicable in the moral context.

That said, the strength of the "institutional objection" can be overestimated. Firstly, morality too has what to say about conduct involving valuable social institutions, such as the "institution of friendship" or the "institution of requests," both featured in the airport example. And, possibly, there are procedural moral norms protective of the integrity (or of similar values) of such social institutions. For instance, misusing the institutions of "friendship" and "request"—such as relying on those institutions to hypocritically issue directive reasons—risks eroding those institutions. Thus, law incorporates procedural norms of legal standing to protect the institutions of litigation and the judiciary from abuse of the *legal power* to bring legal claims; likewise, we contend, that morality includes procedural norms of standing to protect valuable social institutions from abuse of the *moral power* to give moral (directive-)reasons.

Another response to the "institutional objection" is that some of the justifications of legal standing norms appear "institution-free" and, therefore, more straightforwardly applicable in the moral context. For instance, familiar justifications of the clean hands defense ground it in everyday notions of fairness. Found, for example, in

⁵⁸Garber v. Crews, 324 U.S. 200 (1945); Loughran v. Loughran, 292 U.S. 216, 229 (1934) (J. Brandeis); Dobbs 1993, at 68–70.

⁵⁹Loughran v. Loughran, 292 U. S. 216, 229.

⁶⁰Notice that "prior" here marks a normative relation, not a temporal one.

⁶¹Fischer 2006, at 471. For a critical evaluation see Herstein 2011.

⁶²Precision Instrument Mfg. Co. v. Automotive; Maintenance Mach. Co., 324 U.S. 806 (1945) 814–815.

⁶³For a critical discussion of this view see Herstein 2011, at 176–178.

the maxim that “no one may profit from his or her own wrongdoing” or in the idiom “the pot calling the kettle black.”⁶⁴ Such notions express moral principles that are not institutionally dependent. Further indicating that moral norms of standing are indeed procedural, similar to their legal counterparts.

It can be further objected that our reliance on the fact that legal norms of standing are procedural as a means to support our procedural account of moral norms of standing fails because the law, unlike morality, involves a formal process and third-party arbiters, such as judges and jurors. Moreover, in moral practical reasoning, the deliberator herself is typically impacted by the decision, involving a kind of “conflict of interests”—which is anathema to the legal process, in which the arbiter is expected to lack a personal interest in the matter before her.

This objection is surmountable. Firstly, at times, moral agents seemingly ought to apply procedural norms in their moral judgments.⁶⁵ For example, it seems that one ought not to conclude whether one is morally permitted to blame someone without sufficient evidence.⁶⁶ Secondly, the separateness of judges from litigants does not threaten our analogy, because moral deliberation too is typically thought to incorporate a measure of impersonalization and generalization, distancing the moral deliberator from prioritizing her own interests.⁶⁷

B. Abuse of Normative Power

Social institutions involve enduring positions, roles, practices, norms, and values embedded in social structures and organizing patterns of human activity.⁶⁸ Moreover, such institutions generally incorporate procedures as part of their operations and even their constitution. Social institutions are many, inclusive of examples such as The National Basketball Association (NBA), The Family, The Corporation, and the MOMA museum in NYC.

The giving of directive reasons is an “institution.” That is not to say that reason-giving is a social institution. Rather, as we employ the term, “reason-giving” and, more specifically, “directive-reason giving,” is an institution of *normativity*; a general category incorporating normative institutions such as blaming, requesting, and forgiving (all of which, going back to our topic, involve norms of standing). Thus, what we call “*normative institutions*” are a set of interconnected norms, together exhibiting institutional features.

Although different from social institutions, “normative institutions” are often wrapped up with *valuable* social institutions. Indeed, normative institutions are frequently reflective of counterpart social institutions, embodying a kind of aspirational model for those institutions. Such as the normative institution of promises, which delineates enduring types of roles (e.g., promisee, promiser, beneficiary),

⁶⁴For more on this see Herstein 2011, at 192–198; *Fairway Developers, Inc. v. Marcum*, 832 N.E.2d 581, 585; *Precision Instrument Mfg. Co. v. Auto. Maintenance Mach. Co.*, 324 U.S. 806, 815 (1945).

⁶⁵We establish this general proposition at length elsewhere. See Herstein and Malcai 2024.

⁶⁶*Enoch In Defense of Procedural Rights (or Anyway, Procedural Duties): A Response to Wellman*, 24 LEGAL THEORY 40 44–48 (2018).

⁶⁷Just to give a couple of very familiar examples, consider Kant’s “Universal Law” formulation of the “Categorical Imperative” and R.M. Hare’s insistence of “universability” as a feature of moral propositions, FREEDOM AND REASON (1963).

⁶⁸Turner THE INSTITUTIONAL ORDER (1997), at 6.

norms, values, and procedures; pertaining and offering (at least partial) guidance to certain patterns of human activity such as, for instance, the positive law of contracts.

Many institutions incorporate norms protective of the institution itself, such as its integrity, coherence, and core values, fending off institutional misuse and abuse. For example, the evidentiary rules excluding illegally obtained evidence mentioned above, are justified *inter alia* on the grounds of the integrity of the court.⁶⁹ In fact, certain legal systems incorporate norms against the abuse of legal powers, even by private actors.⁷⁰ For example in the U.K., courts may limit litigants' power to initiate civil proceedings, if found engaging in initiating vexatious civil proceedings.⁷¹

Similarly, we hold that *normative* institutions can also incorporate such self-protective norms—norms that defend institutional integrity or core values against abuse of normative powers integral to the institution. For instance, the normative institution of requests incorporates standing norms defending against abuses of the normative power to make requests, such as in the case of hypocritical requests. As argued above, these norms are second-order procedural norms; for example, the standing norm according to which one is permitted to exclude reasons generated by a hypocritical request when deliberating whether one ought to act as requested. The permission to exclude hypocritical requests maintains the integrity of the institution of requests *as a moral institution*—simply put, providing for wrongdoing runs against the moral essence of such institutions. As explained above, standing norms are part of nonideal moral theory and, given that requesting is a practically oriented *normative* institution, it not surprisingly exhibits norms responsive to a nonideal reality.

C. Normative Fairness

Normative deliberation is a kind of procedure of engaging with reasons, such as deliberating, making judgments, and reaching conclusions. And, at least arguably, much like institutional (e.g., judicial or administrative) deliberation, this procedure is subject to principles of procedural justice. As stipulated above, issuing directives without standing is wrongful to the directive's addressee. An obligation to deliberate on such a directive makes the process of deliberation unfair to the addressee. Let us call this unfairness "normative unfairness," as it is the *process* of moral deliberation itself which is unfair. That is, what is unfair is not some action—such as the wrongful exercise of normative power of issuing a hypocritical request—but the putative demands of morality to deliberate on the reasons generated by the wrongful exercise of such power. In a sense, such demands add "insult to injury." As one is not only wronged by the directive, but then also finds oneself under an obligation to deliberate and to even act on that directive. In our view such demands of moral deliberation are unfair, making them implausible as demands of morality. Morality, if you will, does not require being a "sucker"; at the very least, it does not require moral sainthood.⁷²

⁶⁹ See, e.g., *Ridgeway v. The Queen*, (1995) 184 C.L.R. 19, 38 (Australia); Rome Statute of the International Criminal Court art. 69(7), July 17, 1998, 2187 U.N.T.S. 90.

⁷⁰ See, e.g., German Civil Code (BGB) Section 226 (The exercise of a right is not permitted if its only possible purpose consists of causing damage to another).

⁷¹ Senior Courts Act 1981 Section 42.

⁷² For a classic critique of the ideal of moral sainthood, see Wolf *Moral Saints*, 8 J. PHIL. 419 (1982).

Keeping with our focus on the fairness of the process of moral deliberation, arguably were this process unfair it would cut against its *integrity* as a *moral* process. A clarificatory analogy is found in the legal ideal of due process. Due process mandates that legal process adhere to certain principles of justice and fairness as a value unto itself, even regardless of the outcomes of any specific legal proceedings. For example, many legal systems contain rules providing for the exclusion of evidence obtained in violation of the defendant's constitutional rights, even if otherwise admissible and probative. One common reason for such rules is the "imperative of judicial integrity," under which relying on illegally obtained evidence makes the court itself complicit in illegality.⁷³

Still, initially, the idea that procedural fairness is applicable to the process of *moral* deliberation might strike one as jarring. After all, unlike legal processes, moral deliberation is a mental process and the "parties" are "represented" not by lawyers, but by the moral reasons that they give to the deliberating agent.⁷⁴ Moreover, ideally, a trial is by an impartial judge bound by principles of fairness in adjudicating litigants' claims; in contrast, in moral deliberation, the deliberating agent is often also one of the "parties," that is, she is also the moral patient. In our specific case, which involves abuse of moral power by giving reasons without standing, the victim of procedural unfairness is the addressee, who is also the deliberating agent (the "judge").

However, we think that this disanalogy between legal procedure and the process of moral deliberation does not make the ideas of "moral procedural fairness" necessarily misguided. Crucially, as defended elsewhere,⁷⁵ our view is that morality, like law, has a "procedural branch." Namely, that moral discourse includes procedural norms (outcome-neutral second-order norms about how to engage with other norms). Adopting this assumption, makes it neither surprising nor jarring that some of these procedural moral norms are grounded in the value of (procedural) fairness.

D. Normative Coercion

But why are standing norms justified as procedural exclusionary *permissions*? When issuing a directive-reason, agents intentionally exercise a normative power to alter the normative landscape of the addressees of their directives. As such, directives are intentional interventions into their addressee's autonomous sphere, imposing on them previously nonexistent reasons and, at times, even all things considered obligations. Of course, confronted with directive-reasons, addressees are not strictly speaking physically coerced to comply, retaining the freedom to defy those reasons. In that sense, addressees' autonomy is preserved. However, what is curtailed is what may be labeled one's "normative autonomy." Assuming one is (all else equal) inclined to act morally, new directive-reasons can rearrange one's "choice architecture," thereby morally "forcing" one to act as directed. Our notion of "normative autonomy" should not be confused with "moral autonomy" in the Kantian sense, which is roughly the capacity to subject oneself to the "moral law." In contrast, by "normative autonomy" we have in mind enjoying a sufficient range of

⁷³See e.g., *Elkins v. United States*, 364 U.S. 206 (1960), 222.

⁷⁴In the case of standing, the "parties" are the issuer of the directive and its addressee.

⁷⁵Herstein and Malcai 2024.

morally permissible options to choose from and to thereby organize one's own life accordingly.

The value of normative autonomy draws on its relation to personal autonomy. In a nutshell, "[t]he ideal of personal autonomy is the vision of people controlling, to some degree, their own destiny, fashioning it through successive decisions throughout their lives."⁷⁶ Normative autonomy therefore is a condition of an (personal) autonomous life that is, also, a moral life.

Directive reasons can curtail normative autonomy (and thereby can curtail valuable personal autonomy) as they might narrow the range of one's *permissible* options. In fact, such reasons can put the addressees of directives in a dilemma: having to choose between either acting on those (new) moral reasons or acting on their (e.g., self-regarding) preferences (as was possibly permissible prior to the directive). For instance, a valid request often appears somehow burdensome to normative autonomy, even in cases in which the request is appropriate. Imagine that you put aside a thousand dollars to attend a World Cup match. But then a friend, who is in financial need, asks you for the money. The request, let us assume, is perfectly valid, giving a reason to grant it. And, therefore, following the request I am morally obligated to part with the money and, thereby, to give up on my lifelong dream of going to a World Cup match. In this respect, the request significantly limited the scope of my morally permissible options to choose to do with my money as I wish in pursuant of what is, to me, a meaningful goal, thereby narrowing my normative autonomy (in a way that is of a disvalue to me).

To be sure, directives, such as requests, are part of valuable human interaction (even when autonomy-restraining); for instance, requests are an important feature of friendship and, given that friendships are valuable, requests among friends are valuable as well. Yet, as suggested above, inappropriately issuing directive reasons, such as under the conditions underlying norms of standing, constitutes a wrong. Such wrongs are not free-floating but are, as explained above, relational. Namely, they are wrongful to their addressees. Thus, making hypocritical demands or meddling in the affairs of others, etc. wrongs the targets of such behavior. Given this, violations of standing norms are *wrongful* interventions with the normative autonomy of their addressees, which, as such, can be labeled "normative coercion." The coercive feature of wrongfully issued directives is wrapped up in the fact that directives are an instance of intentional reason-giving. In this respect, directives are the product of an exercise of normative power against someone else. And when such power is exercised wrongfully, as is the case of directing without standing, it amounts to a kind of (normative) coercion.⁷⁷

The "normative response" called for by such coercion is moral permission to exclude those reasons. As such a permission reverts control to the addressee, freeing her from the obligating coercive force of wrongfully imposed reasons, by permitting her to exclude them. By analogy, the appropriate "remedy" for physical coercion, namely the wrongful exercise of physical force on another, is a right to resist such physical intervention, such as to withhold consent to the intervention or even to repel it physically. This right is justified, *inter alia*, by the value of one's *physical* autonomy,

⁷⁶Raz 1986, at 369; Dworkin, *The Theory and Practice of Autonomy* (1988).

⁷⁷Certainly when the wrongfully issued directive is a conclusive reason or one that tips the balance of reasons.

such as autonomy over one's body or one's property. In law, for instance, a remedy for trespass to one's land is permission to use otherwise unlawful physical force to repel the trespasser.⁷⁸

Similarly, an appropriate "remedy" for normative coercion, namely a wrongful imposition of normative power on another, is a right to resist or repel such an intervention. This right is justified, *inter alia*, by the value of one's *normative* autonomy. For instance, the appropriate remedy in cases of hypocritical requests is permission to exclude valid—yet wrongfully issued—directive reasons, thereby reestablishing one's liberty to make the relevant choices.

Now, such exclusionary permissions must take the form of *procedural* permission rather than a *substantive* one. Namely, the permission must be to exclude directive reasons from one's moral deliberation rather than permission to act against the balance of reasons. A permission to act against the balance of reasons cannot remedy a wrongful encroachment on one's normative autonomy. Because once the wrongfully issued directive reason "enters" one's deliberation, one is already thereby "normatively coerced," having to choose between acting on that new reason or acting on one's preexisting wishes. In contrast, permission to exclude a wrongfully issued directive reason from deliberation sidesteps this dilemma, keeping one's normative autonomy unencumbered.

Furthermore, that standing norms exhibit *procedural* exclusionary permissions is apparent from the first-person perspective of a moral deliberator. As discussed above under the heading of "the transcendental argument," the justification of permission to act against the balance of reasons is in a way inaccessible to the addressee. From the addressee's first-person perspective, it seems odd to conclude that the balance of reasons requires one thing, yet still justifies to oneself that the value of one's autonomy somehow permits acting differently.⁷⁹ This is the phenomenology of what, in this Section, we have labeled "normative coercion." Accordingly, in order to make sense from the moral deliberator's first-person perspective, permission to exclude must be procedural—permitting excluding the directive reason from deliberation, *ex ante*. That is, "prior" to its encroachment on one's sphere of normative deliberation.

VII. Wishful Thinking?

But, even assuming that a world in which we have moral permission to exclude directive reasons issued without standing is a better world than one in which no such permission pertains, does that fact indeed give reason to think that we have such permission? A positive answer to this question seems to commit us to the naïve inference: "Wouldn't it be nice if P, therefore, P?," which appears a paradigmatic inference from wishful thinking.⁸⁰ For nonmoral propositions, such an inference is obviously invalid. For example: "that it would be a better world if there were world peace, therefore there is world peace." Similarly, the objection goes, for moral propositions, this inference is seemingly also invalid. Thus, "that it would be a better

⁷⁸Restatement (Second) of Torts § 218 cmt. e (1965).

⁷⁹This quandary echoes the Kantian tradition regarding moral autonomy, as the capacity to subsume oneself to the moral law.

⁸⁰Enoch *Wouldn't It Be Nice If P, Therefore, P (for a Moral P)*, 21 UTILITAS 222 (2009).

world if people had permission to exclude directive reasons issued without standing,” does not entail that we have such permission.

We respond that we do not make this “better-world argument.” This argument takes the following form: $G P \phi \rightarrow P \phi$. Where “G” stands for “it is good that ___” and “P ϕ ” stands for “ ϕ is permissible.” This is arguably invalid, as “(morally) good” does not seem to apply to another moral predication, such as “ ϕ is permissible.” The scope of moral predicates and operators seems to extend to actions, persons, or state of affairs, rather than to moral propositions.⁸¹ To be clear, obviously moral operators can apply to positive *social* or *legal* norms. Yet, applying them to *moral* norms appears conceptually defective.

All this notwithstanding, the arguments we provided above in Section IV under the heading of “normative grounds of standing norms” are not committed to the suspect inference found in “better-world arguments.” All our arguments do is *explain* norms of moral standing in terms of more basic values, such as a type of personal autonomy and fairness. Indeed, grounding moral norms in more basic values is standard practice in the field of normative ethics.

Still, we are not yet out of the woods. Because even if our justifications of standing norms are not conceptually incoherent, they are still marred by a kind of wishful thinking. Because the explanation of procedural exclusionary permissions in terms of fairness toward the deliberating agent or terms of her autonomy is suspicious, especially when viewed from the first-person perspective of the deliberating agent. To justify to myself that I may exclude a (valid) moral reason which applies to me, because morality “cares” about my autonomy or because morality must “treat” me fairly, appears no more than self-indulgent wishful thinking. Simply put, morality can be demanding and, its demands “are what they are,” not what we wish them to be.

However, notice first that this objection is applicable to any view accepting moral permissions that bring about morally sub-optimal outcomes. And might, therefore, result in revisionist views. For example, arguably we do not have a moral duty to closely associate with others, even if doing so was morally preferable.⁸² It is, in other words, up to us who to befriend and with whom to form substantial relationships.⁸³

Secondly, it is worth noticing that moral norms regularly “treat” their norm subject (the agent) also as their norm object (the patient). For instance, the norm “all else equal, in dividing a cake between yourself and a friend, you are permitted to take up to half a cake for yourself,” treats you—the agent that is subject to the norm—also as a patient, as the norm is animated by concerns such as fairness or equality, which relate not only to your friend but to you as well. Thus, justifying norms on the

⁸¹Notice that our notion of second-order norm does not commit us to the controversial view that the arguments of normative predicates or operators can be normative propositions as opposed to actions, persons, or states of affairs. Our account merely requires that second-order norms be expressible by propositions including a normative term within the scope of their normative operator. Recall that our definition of “second-order norms” are as expressible by sentences that include a normative term within the scope of a normative predicate or operator.

⁸²Mill ON LIBERTY (1859), at chapter 4, “We have a right ... to act upon our unfavourable opinion of any one, not to the oppression of his individuality, but in the exercise of ours. We are not bound, for example, to seek his society; we have a right to avoid it (though not to parade the avoidance), for we have a right to choose the society most acceptable to us.”

⁸³To be fair, this view is not without its detractors. See, e.g., Brownlee *Freedom of Association: It's Not What You Think*, 35 OXFORD J. LEGAL STUD. 267 (2015).

grounds of values such as fairness to the agent or concern for her autonomy does not involve an invalid inference of “wishful thinking.”

Thirdly, and more importantly, the objection from wishful thinking seems to have more bite in the case of *substantive* exclusionary norms that permit or even require to act against the balance of reasons. As argued above, procedural permission (or even an obligation) to exclude a valid reason from deliberation is less paradoxical than permission or obligation to act against the balance of reasons.

Finally, it is true that from the *first-person* point of view of the deliberating agent procedural permissions to exclude (valid) reasons might raise the worry of wishful thinking. Yet, this phenomenological observation does not necessarily imply that such procedural permissions are invalid. As we suggest elsewhere, as a general matter, justifications of procedural norms are sometimes not completely (normatively) accessible to the agent occupying the first-person perspective.⁸⁴

Returning to the specific case of standing, it is not that the agent cannot comprehend the reasons in favor of the exclusionary rule. Rather than, for an agent occupying the first-person point of view in a particular case, it seems that she is hard-pressed to *not* morally dislodge herself from the normative pull of (valid) reasons. For instance, from the first-person perspective, if I have a moral reason to drive a friend to the airport, it seems odd was I to tell myself that I may just ignore that moral reason on account of my own self-interest (e.g., my autonomy). As a moral agent, this sort of reasoning is liable to seem like wishful thinking. Yet, the inaccessibility—from the first-person perspective—of justifications of permissions to exclude from deliberation such (valid) reasons, does not entail that such norms are beyond justification from an external third-person point of view. Indeed, as we saw in Section VI, when taken from the third-person perspective the justifications for the permission to exclude such reasons appear compelling, as that perspective can accommodate viewing the agent herself also as a moral patient.

In fact, a similar phenomenon is common in the law. For example, consider the case mentioned above of probative yet illegally obtained evidence. Even if the judge believes—based on that evidence—that the accused is guilty beyond reasonable doubt, she still has permission or even a duty to acquit him. When taken from the first-person point of view of the presiding judge, such a permission (or duty) seems unjustified, given that it might bring about a sub-optimal normative outcome. Namely, it will result in the acquittal of a guilty criminal. Yet, such permissions to exclude probative evidence (discussed above) are justifiable from a third-person point of view. Namely, that of the overall criminal justice system concerned with the integrity of the legal process.

Similarly in morality, permission to exclude from deliberation a valid reason issued without standing may be justified from an external point of view, given values related to the process of moral deliberation, such as the value of the integrity of normative institutions, discussed above. Even if that justification is inaccessible from the first-person perspective of the deliberating agent.

More generally, once we accept that procedural norms of moral deliberation exist, namely that moral discourse is rich enough to include outcome-neutral second-order norms about how one ought to deliberate on other norms, it becomes far less

⁸⁴For a further discussion, for example in the context of role morality, see Herstein and Malcai 2024, at 197–198.

surprising that these norms are grounded in familiar values, such as fairness, autonomy, or institutional integrity of valuable institutions. After all, in what—other than such familiar basic values—are any moral norms grounded?

Furthermore, if normative propositions can refer to other normative propositions, to normative institutions (such as requests), and perhaps even to the normative discourse as a whole, then the ideas presented above, such as “normative fairness,” “normative autonomy,” and the “integrity of moral institutions,” do not seem peculiar. Indeed, once we accept the existence of norms that guide us in our engagement with other norms it becomes perfectly plausible for moral discourse to include norms grounded in, for example, the fairness of the process of moral deliberation or the normative autonomy of moral agents. Similarly, the fact that morality can be, in a sense, self-referential, explains the possibility of procedural moral norms grounded in the integrity of moral institutions. Thus, the second-orderness characteristic of moral discourse explains why these ideas are part of morality, and why accepting them as grounds for procedural moral norms does not involve irrational wishful thinking.

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