

Non-deontic Norms and Mere Toleration

Remarks sent to Laura.

Thank you to Tom for organizing this and especially to Laura for giving us such an outstanding piece of philosophy to wrestle with together. Inasmuch as one of the functions of an author meets critics is to give you all an indication of whether you should read the book, let me discharge that role quickly: you absolutely should! It has been a joy to read and think alongside over the last few months—the questions it raises, the incisive negative arguments it develops against rival pictures, and the clear, well-developed, and wide-ranging positive view are all invaluable contributions to ethics and political philosophy. It doesn't hurt that Valentini's voice, by turns serious and playful, makes the book great fun to work through. Ever since reading it, I have had the AGENCY RESPECT VIEW it defends clearly in mind as I have thought about basically everything else I've been working on. It's that kind of work, one that will stick with you, offering an insightful lens for thinking through all kinds of issues—both ones Valentini explicitly raises and many others besides. But to borrow one of my favorite phrases from a good friend,¹ objections are a philosopher's love language, so enough *telling* you I love it—it's time to *show* it with some objections! I'll develop two.

1 Non-Deontic Social Norms

Valentini's book opens with an account of *what* a social norm is. The account treats norms as having essentially deontic content: they require, forbid or permit action, e.g., they require taking off one's shoes in the temple and forbid cutting the line at the bus stop. Such requirements may be defeasible, but they are not mere recommendations. Their content is of the form [ϕ -ing is required/forbidden/permissible]. My first objection begins with the observation that lots of social norms establish normative standards that are non-deontic—their content is not about requiring, forbidding, or permitting.

¹ Claire Kirwin

We could have, for instance, social norms whose basic content is best expressed in terms like the following:

- [ϕ -ing is recommended but not required]
- [S has (non-requiring) pro tanto reason ϕ]
- [ϕ -ing is good or ideal in some way]
- [Being disposed to ϕ (or disposed to take p as a reason to ϕ) is virtuous (but not required)]

Consider the norms of an academic department, where we typically construct standards about what it is, for instance, to act *ideally* as colleague that involves going *beyond* what is required.² When we do so, the socially established standards of relating well to others *cannot* be entirely understood in terms of requirements, prohibitions, and permissions—other normative notions are at play.

For example, imagine in my department there is a norm recommending but not requiring colleagues be *warm* to one another. Ideal members of the department inquire after each other's personal lives, show personal affection and care, treat each other with friendliness, etc. Now suppose that I am a bit cold in violation of the norms; no one registers my behavior as *forbidden* or an omission of what is required, but they do think of it as a bit defective. Imagine my colleagues don't resent my coldness or feel wronged—indicia of a violation of deontic standards. Instead, they do feel a bit disappointed or let down—they aren't mistaken to hope for more from me.

There are two relevant dimensions of my failure here that my colleagues might be sensitive to. One is behavioral; they might be disappointed by the fact that I never *ask* about their life outside of work, that I never offer a smile in the hallway, all the while regarding my behavior as permissible (but short of ideal). I think a great deal of social norms carve out this kind of terrain: they don't just establish the deontic facts but say what it is to be an ideal occupant of a social role or participant in a practice. Just

² We may also construct standards of what is suberogatory (a la Driver), indecent (a la Calhoun), a violation of non-rights-based personal bonds or of normative hopes (Martin), a morally permissible moral mistake (Harman), a disappointment of second personal relations of the heart (Darwall), etc.

consider the social standards of parenting, teaching, neighborliness, co-citizenship, or friendship—there are standards for action beyond requirement and permission at play. One can be an ideal or merely adequate occupant of such roles.

A second dimension of my failure is not strictly behavioral but about my moral psychology or character. My colleagues might be disappointed only by my not *doing* the warm thing, but by my not *being a warm person*. That aretaic flaw itself can register as defective by the lights of a social norm. Again, I think an awful lot of social normativity is concerned with aretaic standards: social norms don't just tell us what to do, they make claims on what and how we should be, feel, think, notice, etc; on what's exemplary, virtuous, vicious, and many shades in between. Part of what is involved in coming to occupy a new culture—be that culture national, departmental, or even familial—is not just adopting forms of behavior but also patterns of attention, ways of reasoning, and dispositions of *affective* responsiveness. That last bit seems, to me, key to many social norms: one can *fall short* of socially constructed standards of parenting or collegiality or neighborliness in one's emotional responsiveness, and our account of social norms should honor that.

Happily, Valentini's account of the metaphysics of social norms is, as she puts it, modular. We can disagree about the content of such norm—what she sees as essentially deontic we can loosen to involve other practical standards—while agreeing with her account of what it takes for a norm to be public, what constitutes the attitude of *acceptance* of a norm, and the breadth of acceptance required for individuals' commitments to rise to the level of a *social* norm for a given context. We can just slot in norms like those listed on the handout as among the things that can be widely, publically accepted.

The tricky bit comes in when we ask how such norms wind up mattering morally to us—how they can generate reasons. A flat-footed application of the AGENCY RESPECT VIEW will not work as it will falsely predict that failing to live up to such a norm outright is a matter of disrespect. But that's exactly what is *not* at issue when one fails to live up to a non-deontic norm. To see this, consider things in terms of the grounding claims Valentini uses:³

³ (MAKE MATCH LAURA'S HANDOUT IF SHE USES ONE)

Action Recommended but not Required: Quinn has some reason to ϕ (ϕ = be warm/act warmly to colleagues).

In virtue of what do I have reason to be warm/act warmly?⁴

Empirical Fact: Because a socially constructed norm⁵ recommends (though does not require) it.

In virtue of what does the fact that ϕ -ing is recommended (though not required) by a socially constructed norm ground the existence of a(n additional) reason to ϕ ?

Target general moral principle: Because you have an obligation to respect people's commitments (i.e., "to give *agency respect* to people").⁶

The problem: this account says that if I'm cold to my colleagues, I violate an obligation and thereby disrespect them. But at least in the sense of disrespect that Valentini and I share—where to disrespect someone is to wrong them, thereby warranting Strawsonian reactive attitudes like *resentment*—there is no *disrespect* involved in my failing to be warm. That follows from my stipulation of the case: no one feels disrespected, no one thinks my coldness warrants resentment; my defect does not register as wrongful, just non-ideal.

The AGENCY RESPECT VIEW invokes a pre-social moral requirement as the anchor for the moral force of social norms. That anchor is the requirement to, as Valentini puts it, "give agency respect to people." The moral norm requiring respect is not socially constructed; it precedes any social norm. Having the pre-social moral anchor of social norms be the requirement of agency respect makes good sense when the content of norms is restricted to *deontic requirements*. The anchor—a requirement to respect—has the right metanormative flavor to go with the content of the norms—which require, forbid and permit. But now we have a norm that *by its lights* does not

⁴ ADD IN MARGIN NOTE OF HANDOUT: Of course, you could consider the rival accounts Valentini rejects for such non-deontic norms; but I don't see how any of her arguments would be any more effective against rival accounts of deontic social norms than rival accounts of non-deontic social norms. If the rival views fail her core deontic norms, they fail for non-deontic norms also.

⁵ That is authentically adopted, not too costly to obey, and has morally permissible content.

⁶ That meet the conditions listed in the above footnote/marginnote.

generate requirements and which is anchored in the moral universe by a *requirement* to respect. That is a mismatch.

Could we expand on the AGENCY RESPECT VIEW to cover non-deontic social norms? Maybe. Respect is not the only form of regard we bear towards others. We love and care for others, valuing them in a way that goes beyond the required minimum of respect. We might think that *respect* only requires abiding by the *deontic* norms others accept. By contrast, going beyond respect and *caring for* or *loving* another might involve taking on board further commitments of theirs—the optional, non-deontic ones. When I go beyond mere respect and optionally *care* for my colleagues, I don't just abide by what they think of as required of me, but what also what they think of *ideal* in our social space.

On what I might call an expanded AGENCY REGARD picture, we can have, as it were, two kinds of pre-social anchor that grounds two kinds of social norm. Respectful regard for you involves abiding by your commitments with deontic content; respectful regard for you is required, and therefore I am required to follow your deontic commitments. Caring regard for you is optional but ideal, and it involves caring about your non-deontic commitments and taking them on board as recommending optional but ideal ways of relating to you.⁷

Schematically:

Action Required: You are required to ϕ . (ϕ = respond to colleagues' emails quickly).

In virtue of what is S required?

Empirical Fact: Because a socially constructed norm requires it.

In virtue of what does the fact that ϕ -ing is required by a socially constructed norm ground the existence of moral requirement?

Target general moral principle P: Because you have an obligation to respect people's commitments (i.e., "to give *agency respect* to people").

⁷ HANDOUT WILL HAVE A CHART. Respect for you → Abide by deontic comments; Care for you → Take on optional, non-requiring commitments

And now an extension of that same strategy on the right of your handout—we have a form of regard for the value of another’s agency that involves taking on their commitments:

Action Recommended but not Required: You have strong but not requiring reason to ψ (ψ = be warm to colleagues).

In virtue of what do I have reason to be warm?

Empirical Fact: Because a socially constructed norm recommends (though does not require) it.⁸

In virtue of what does the fact that ψ -ing is recommended (though not required) by a socially constructed norm ground the existence of a(n additional) reason to ψ ?

Target general moral principle P' : Because *caring for others* is recommended (but not required), and caring for others involves caring about other people’s non-deontic commitments which recommend, without requiring, ways of relating interpersonally.⁹

Maybe this expanded view works. But I have a lingering worry. P and P' are pretty different; that is, the reasons we have to respect others independent of social norms are quite different from the reasons we have to care for others independent of social norms. As Valentini thinks of it, social norms don’t give us any more reason to

⁸ Here, too, we could build in various conditions on the norm: that it is authentically accepted, has morally permissible content, and isn’t too costly.

⁹ There’s some room to give additional nuance here. It might be one thing if I fail to be warm to my colleagues and thereby fail to manifest care to them in a way that is nevertheless not a violation of the requirements of respect. But we might imagine I am scornful of my department’s care-related norms; I’m not just cold but disdainful of the fact that others are committed to a norm of warmth. That might wind up being disrespectful. And for all I’ve said, I haven’t explained why that would be. That is, we might need a story that explains how different ways of failing to accord with the warmth norm result in different normative defects: merely missing the mark might be merely uncaring but permissible whereas *scorn* or *disdain* for the norm is even further a matter of disrespect. One suggestion might be to deploy a notion of an imperfect duty—a duty to have a certain end but not to actually pursue it in every case. But I worry that any *deontic* notion will be *too deontic*—we can have social norms that in no way implicate a *duty* to be warm or to value warmth or whatever.

respect other people—social norms give *further content* to a totally pre-existing obligation to give others agency respect. But that is not so for care and similarly *optional* forms of regard for others. We have some reason to care for everyone,¹⁰ independent of social norms, just because they are human beings. But our reasons to care for others, unlike our reasons to respect others, are profoundly sensitive to social norms. It is the work of social norms to single out members of my department as *particularly worthy* of my caring attention. Contrast the following “I have more reason to respect my colleagues than strangers on the street” vs. “I have more reason to care for my colleagues than strangers on the street.” The first is deeply false, the latter true on any view that vindicates partiality. And its truth is a socially mediated normative fact. If it were not a social norm of our department that we care especially about other members of the department—if the social norm were that we *merely respected* each other and treated one another more or less like strangers—I would lack the special reason to care for them that I in fact have.

The expanded AGENCY REGARD VIEW I have sketched cannot make sense of this. Why? Exactly because of its attempt to expand on Valentini’s core strategy: using a target general moral principle that is about *how we should regard other individuals*. The problem with this expansion is that once we go beyond respect and other forms of interpersonal regard, it won’t be plausible that our reasons to manifest that regard are independent of social norms.

So to close my question is how we can account for non-deontic social norms in a way that is continuous with the account of deontic social norms?

2 Internal and External Perspectives on a Social Norm

My second worry is that, by design, the AGENCY RESPECT VIEW will only ever yield a kind of second-best form of social normativity.

One of the recurring examples Valentini uses is the requirement I, a non-Hindu, am under when entering a Hindu temple that forbids shoes. The Hindus who support this norm have what she calls “norm-internal reasons” for removing their shoes—they think, suppose, the goddess requires it of them. I don’t believe in the goddess,

¹⁰ In “Love First” I defend the even crazier view that we have reason to love all!

and so I think I have no such reason; yet I am required all the same. So Valentini argues we must not look to norm-internal reasons (here, religious) but considerations that are totally external to the social (here, religious) practice.¹¹ Provided it passes various conditions, I should obey *whatever* norm the Hindus adopt out of respect for them, and can do so while being totally alienated from the considerations that move those who fully *inhabit* the social practice.

It is not an accident that this maneuver is especially attractive when thinking of religious norms—for *such* social norms, I think an external perspective is often the only one available. The internal reasons are not available to many of those who are nevertheless constrained by the norm. I don't believe that there are gods who care about my footwear, but I am nevertheless bound by the norm because there are people who do; for me, then, an external account is the only one that *could* succeed. And the account Valentini gives of AGENCY RESPECT, I think captures the requirement perfectly. But I worry that this case is *not* the right paradigm for a theory of the moral significance of social norms in general.

Note that we have a particular word to describe the relation that I, the non-Hindu, bear towards this kind of Hindu practice: toleration. To manifest toleration for others' social norms is to respect them, and I agree it is required. But tolerance is not primary virtue of social life; a theory of why we should *tolerate others' commitments* is an important *part* of a theory of the moral force of social norms, but it is not all of it. Why? Because many social norms are not merely tolerated but inhabited, and for them, it is a story about the reasons *internal to the social practice* that is essential. Though I cannot inhabit the Hindu practice fully, most social practices whose norms bind me are ones that I *can and should* inhabit. If that's right, then the AGENCY RESPECT VIEW *cannot* be the heart of the story about the moral significance of the social norms we can and should inhabit.

To see this, consider an example. Suppose in my department that there is a social norm requiring we respond to email within a day or two (except in very special circumstances). To put my preferred view up-front contrast the following:

AGENCY RESPECT ACCOUNT I am required to respond to emails within a

¹¹ Include this passage from the opening page of ch. 3 on the handout.

day or two because my colleagues are committed to the norm.

INHABITING THE SOCIAL NORM Part of what it is to fully inhabit my role as a member of my department involves *my valuing timeliness*.¹²

I think the **AGENCY RESPECT VIEW** captures a second-best form of relating under a social norm, and the latter part of a sketch of a view describes the real paradigm.

Why think agency respect is second best? Because it is often disappointing to *feel tolerated*. Imagine I don't really think it is important to answer others' emails in a timely fashion. Imagine that in my old department, we answered emails *eventually*—often a month or two late.¹³ We all got by, and we were liberated from the tyranny of email-urgency. But imagine that I know that others in my current department are committed to the norm that we are required to respond within a day or two to a colleague.

Suppose I violate this norm. I thereby wrong my colleagues. Now suppose that I come to an important realization: that in failing to accord with the social norms of the department, I am actually disrespecting my colleagues' commitments. And so I reform my email practice *on the grounds* of agency respect. One colleague, used to my tardiness, expresses her surprise. "What changed?" she asks. "Why are you now so responsive? I know you have always been skeptical of our email norm—have you come to value timeliness more?"

"No," I respond. "I don't share your value of timeliness as important. But I respect *you* in a way that is independent of the content of your norms. If it were a social norm that we remove our shoes in the department because the gods of philosophy demand it, I'd do that, too, and for the same reason I answer email quickly. In the same way that I tolerate others' religious practices, however independently unjustified, and respect them, I have come to realize I should tolerate our (equally curious) email norms as well. I am equally confused by both the temple and the email norms, but I don't need to appreciate them *from the inside* to respect your commitments."

¹² For a sketch of the account of social norms that I prefer, see my "Honesty and Discretion," which develops a social-norm-based account of the norms of truth-telling.

¹³ This is not true of my former department!

I think my colleague would be warranted in feeling a bit *disappointed* by my explanation. There is a sense in which I fail to be a full-blooded member of our social community; my *mere toleration* falls short of full participation in our shared practice. In that sense, my way of relating to you is *second best*; it is not awful, it may not even be disrespectful, but it's alienated, and less than my timeliness-norm-supporting colleague might reasonably hope for.¹⁴ What's true of departments is true of other social spaces: in the ideal case, I don't merely tolerate but inhabit the social norms of my in-laws' family, my running club, my church, or my profession.

The AGENCY RESPECT VIEW is designed to give the same verdicts about religious toleration as about departmental, familial, and professional norms; and in so doing, it limits its explanation of the moral significance of the norms of a *shared social practice* to the same materials it uses to capture the moral significance of a social practice from which the agent is *alienated*. And so, its theory of social normativity is confined to the second best, alienated form of interpersonal relation that is appropriate to religious toleration.

That's not to say its not an essential part of the theory of social norms. But if my argument here succeeds, agency respect is not the *heart* of social normativity but something more like a backstop—it says what is required when *genuinely inhabiting* a social practice is out of reach for some reason or another, as it is for many religious norms. We need that backstop in pluralistic, liberal societies; but the backstop isn't the main story.

For all that, you might wonder why Valentini can't say much of this without thinking of it as a problem for her view. She can, of course, distinguish between the kind of alienated, external norm respect that she defends as required and the perhaps optional *sharing* of commitments of norm-supporters. Her claim is just that the moral *requirements* of social norms are those of agency respect. If what we want is the account of the minimal, morally required conditions of respect, the AGENCY RESPECT VIEW gives it. For all that, it might be that there are further ways of relating to others under social norms in sharing their commitments, but that isn't morally

¹⁴ There is a connection, here, to my first line of worry. If all we care about is securing a *requirement to act* in a certain way, my colleague shouldn't be disappointed. But that is *not* all there is to social norms. You can fall short of a social norm in *not caring about things* the way an ideal social-role-occupant would.

required.

I think that response may be right. We may not be morally required to inhabit social norms; toleration suffices as a bare minimum. But this ties back into the first line of objection I offered. Social norms do more than establish requirements of minimal adequacy; they generate a rich suite of normative standards. So I worry the AGENCY RESPECT VIEW leaves a key dimension of our social lives unexplained: why should we seek to inhabit social norms, to take them on and not merely tolerate them? Why isn't toleration and being tolerated enough? What is *missing* when one *merely* respects another's commitments but refuses to share in social practice? What explains the normative pressure on me to not just send emails but *value timeliness* in light of the social norm?