Does “ought” imply “need not”? Constitutivism and inescapability

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Abstract A central element of constitutivist accounts of normativity is the claim that the ultimate foundation of practical authority is sourced in certain tasks, features, and projects that every person inevitably possesses and inescapably has to deal with. We have no choice but to be agents and this fact is responsible for the norms and principles that condition our agency-related activities to have a normative grip on us. I discuss recent criticisms of this central element of the constitutivist strategy. Critics argue that it is exactly because of its inescapability that agency is an impotent source of normative authority. I want to investigate why our intuitions concerning the inescapability strategy go into very different directions. Why do we feel the attraction of grounding normativity in phenomena that not even the normative skeptic can ignore, on the one hand, but seem to hold dear the principle that "ought implies need not," on the other? In the end I defend a third, neutral, way of conceptualizing the relationship between inescapability and normativity. That agency is inescapable does neither guarantee nor rule out its status qua source of categorical normativity. Rather, the fact that something is inescapable better gets decoupled from its normative status. A recent constitutivist attempt to establish inescapability’s role in normative arguments is criticized in the paper’s final section in order to illustrate the superiority of my neutral approach.

1 Introduction
In this paper’s second section I briefly examine some prominent constitutivists’ attempts to employ the inescapability of agency (plus its constitutive principles and aims) as the anchor of unconditional normativity. The view is presented according to which the fact that certain activities are deliberatively, first-personally, inescapable (Korsgaard 2009) and must be accepted by any agent (Velleman 2009, p. 116) provides an especially promising way to identify these activities’ constitutive norms and aims as issuing non-optional normative requirements. The third section formulates the recent criticisms of that strategy, culminating in the objection that it is exactly the inescapability of something that renders it unfit for establishing the normative force in question. This leaves us with a puzzling clash of intuitions: On the one hand, inescapability appears as the guarantor of normativity. On the other hand, however, critics of constitutivism defend the exact opposite view, namely that inescapability undermines any prospects in that regard.

In order to show that both “extreme” positions get it wrong the fourth section presents counter examples to their two main claims respectively. The first way of conceptualizing the relationship between inescapability and normativity, i.e., inescapability guarantees normativity, can easily be undermined by considering cases of inescapable wrong doing. Similarly, however, the other extreme conceptualization exhibits shortcomings: a counterfactual strategy is presented to show that inescapability does not necessarily rule out normativity. The negative diagnosis of section four is that inescapability’s role regarding practical affairs is deceptive, making us blind to the fact that inescapability neither guarantees nor undermines normativity (because the two phenomena are to be taken care of in two distinct and independent conceptual spheres). The defense of my third-way, neutral, conceptualization of inescapability and normativity
runs into a strong objection that is taken up in section five where Paul Katsafanas’ recent account of constitutivism is discussed. One might argue that my attack on the two extreme positions trade on one, maybe even more, equivocations regarding “inescapability” and “normativity.” After all, constitutivists emphasize that the “inescapability” in question concerns “deliberative,” “rational,” etc. inescapability. I argue that these qualifications do not help the constitutivists. Inescapability is inescapability and the most that constitutivism can show is that this inescapability remains compatible with normative phenomena.

2. Conceptualizing the relationship between inescapability and normativity

Constitutivism is a family of views in ethics (whether normative and/or meta is not always easy to tell\(^1\)) that promises quite a lot. It claims to provide an argument that can achieve two things at once: Firstly, the argument accounts for why certain practical principles, norms, and requirements possess normative force and authority (why they “bind us”). And, secondly, constitutivism attempts to provide at least a rudimentary picture of what these principles, norms, and requirements are (what their “content” is) (Tiffany 2012, p. 225). The second issue is taken care of by constitutivists when they analyze phenomena such as human action and agency. Constitutivists like Christine Korsgaard and David Velleman identify certain principles (the Kantian imperatives of practical reason) and aims (achieving a certain level of intelligibility and self-understanding) as providing the basis for spelling out what agents ought to do in so far as

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\(^1\) See Silverstein for an argument that makes a lot out of constitutivism’s (especially the Korsgaard and Velleman variety) ambivalent relationship with meta ethics (2012).
they are engaged in the aforementioned phenomena and activities. Action and belief formation are things humans must do. And in order to do them successfully they have to comply with certain practical and theoretical requirements. Constitutivist theories claim to provide an argument for how we get from our theoretical and practical agency to robust and contentful accounts of what it means to be subject to these requirements and norms.

For the purposes of this paper, however, it is the first of the two tasks that takes center stage. Even the most impressive and comprehensive list of practical requirements will not be of much interest if the constitutivist cannot answer the question of why these particular requirements ought to be adhered to. In other words, the identification of certain norms and principles as normative requirements is insufficient for answering the more fundamental question that any theory of practical authority, constitutivist or not, has to confront, namely why one ought to submit to the force of the proposed normative requirements to begin with. “Fine,” a skeptic like David Enoch’s (in)famous shmagent will grant, “I understand that in so far as one is committed to engaging in the activity of agency, one inevitably has to comply with specific norms and principles that are constitutive of one’s practical agency (agent) and theoretical agency (believer). But why should I engage in the activity in the first place? Can’t I escape the practical and theoretical imperatives in question by simply rejecting the aims and activities with respect to which compliance with the imperatives is constitutive of?” Illustrated in terms of Korsgaard’s theory the skeptic continues to ask, “why not escape the normative force of the agency-constitutive imperatives (and all the further normative and moral
implications and corollaries that flow from them) by rejecting the authority of having to comply with the task of self-constituting action?"

It is at this point that many constitutivists appeal to the inescapability of the tasks and phenomena just mentioned. The idea underlying this argumentative strategy is fairly clear: if we can show that engaging in the activities of action and belief formation are tasks that no human agent can avoid we seem to gain a foothold for concluding that the constitutive features of these tasks too impose inescapable normative requirements on all of us. Christine Korsgaard for example refers to the task of self-constituting action as “our human plight,” meaning that we are “condemned to choice and action” (Korsgaard 2009, pp. 1-2). These formulations succinctly illustrate both, the burdensome as well as the inescapable nature of the process of the creation and maintainence of individual human agency. “You have to act!” and “You have to form beliefs!” are inescapable demands. And once the normative skeptic acknowledges the non-optionality of answering to these demands (by engaging in particular actions and by forming specific beliefs), she will, in the same breath, be committed to acknowledging the authority of the constitutive elements of successfully doing so. The particular, inescapable, character of the activities that have to do with agency guarantees that its constitutive norms are categorically binding and exhibit a normative force that, for example, the principles and norms of an optional activity like playing a game do not.

Chess is the debate’s favorite example: Whereas it makes sense for a chess player to keep herself asking, “what reasons are there to play chess?” the same cannot be asked by an agent engaged in her most foundational activities: in order to ask for any reasons whatsoever, one must acknowledge that one is inevitably entangled in the “game” of
agency. Agency’s inescapability seems to provide exactly what the constitutivists need in order to rebut the skeptical challenge: the question of what reasons there are to be an agent is a dialectical non-starter, since one non-optionally is an agent and has to be one in order to ask for reasons to begin with. Luca Ferrero is one constitutivist who is most clear about the relationship between the inescapability of agency, on the one hand, and the success prospects of normative constitutivism, on the other: “the success of this constitutivist strategy depends on establishing (...) that we cannot but be agents, that agency is non-optional” (Ferrero 2009, p. 304). And for Paul Katsafanas the case for putting inescapability at the heart of constitutivism is even stronger: the “core idea” of constitutivism is that “the authority of universal normative claims arises form a certain form of inescapability” (Katsafanas 2013, p. 47). And probably one of the most prominent statements of the link between inescapability and practical authority is of course Korsgaard claim that “the laws of practical reason govern our actions because if we don’t follow them we just aren’t acting, and acting is something that we must do. A constitutive principle for an inescapable activity is unconditionally binding” (Korsgaard 2009, p. 32).

3. Inescapability: guarantor or destroyer of normativity?

The constitutivists’ strategy, viz. to source normativity in some relevant phenomenon that even the skeptic cannot reject, seems quite appealing at first sight. After all, objections to constitutivism such as Enoch’s shmagency challenge, seem to lose its force when one can show that asking for reasons (any reasons whatsoever that is) is non-optionally tied to
taking up the perspective and stance of agents (not shmagents). A shmagent who asks for reasons to be/become an agent thereby already undermines the challenge’s point, i.e., that being an agent is somehow optional and is something that can be escaped.  

Agency is not like chess; one cannot quit agency by means of recognizing and honoring reasons to do so. The latter tasks can be performed by agents only. Here is Velleman summarizing this point: “[B]y demanding a reason for having the [constitutive] aim [of intelligibility in your actions; author], you have demonstrated that you already have it, since if you didn’t have it, you wouldn’t be a subject of reasons, and so you wouldn’t be asking for them” (Velleman 2009, p. 137).

In the remainder of this paper I will not be primarily concerned with the shmagency objection, even though it should be clear that the inescapability issue is closely connected with the constitutivists’ attempt to refute Enoch’s challenge. I am rather concerned with a more general point, namely the prospects of constitutivism to establish normative authority on the basis of claims concerning inescapable phenomena. I therefore grant two things in the following argument: firstly, agency has certain determinate constitutive norms that all individuals have to comply with in order to be agents; and, secondly, agency is in fact a label for an inescapable task and denotes a perspective that we all have to take up.

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2 What about a shmagent who asks for shmeasons for shmactions? I agree with constitutivists like Ferrero who have emphasized that the shmagency objection can only develop its apparent force when the shmagent is similar enough to an agent – a point that Enoch grants. The problem is the “similar enough” clause. If the shmagent is similar enough for the challenge to work in the first place, she simply seems to be an (awkward) agent. Shmagents and agents must overlap in the relevant respects in order for Enoch’s challenge to develop its distinctive power. However, the more power it develops, the less convincing the challenge becomes since the shmagent then too much resembles agents.
Some of constitutivism’s staunchest defenders (Silverstein3) as well as its opponents (Enoch, Husi) have argued that even granting inescapability does not get constitutivism what it wants. The inescapability of agency (and its constitutive aims and norms) does not in the least guarantee its normative authority. Husi, for example, concludes that “being constrained is not the same as having reasons. (…) What is constitutive of agency and what is inescapable does not explain, ground, or account for what is authoritative and objectively reason-providing” (Husi, unpublished manuscript). Actually, things are even worse than that: inescapability is not merely compatible with normative optionality, the former is incompatible with the latter. Silverstein puts this point succinctly in terms of an example: “In fact, showing that something is inescapable usually drains it of its normative significance: if I am falling from a great height and cannot arrest my descent, questions about whether I should be falling are inapt, to say the least. More generally, where there are no alternatives, normative thoughts seem out of place” (Silverstein 2014, section 4).

How can we explain this surprising clash of intuitions? It is a curious fact about the debate at hand that one and the same assumed fact, viz. that agency is an inescapable feature of human life, can be employed as a premise in support of two contradictory conclusions. One camp in the debate regards agency’s inescapability as the guarantor of normative authority and as the skepticism-resistant bedrock in which all additional and more complex practical items are ultimately and firmly anchored. The other camp not merely claims that agency’s inescapability does not guarantee normativity in this way; rather, it regards the former as annihilating the possibility of the latter. Before we try to

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3 Silverstein dedicates a significant amount of space to refuting the claim that agency is inescapable in any relevant sense. I put this debate aside and assume for the sake of argument that Silverstein’s objections can be overcome by constitutivists (2014, section 4).
answer the question of whether inescapability guarantees or destroys normativity, we first need to get clearer regarding what the different parties to our dispute have in mind when they consider the claim that inescapability has something to do with normative authority.

A clear and helpful statement of what the relevant sense of inescapability consists in is presented by Velleman in his recent response to Enoch’s critique of constitutivism (Velleman 2009, pp. 135-144). For Velleman it is the aim of intelligibility and self-understanding that must inescapably be accepted by all of us and that thereby imposes certain normative constraints on action in a non-optional manner. Velleman distinguishes between “natural inescapability” and what Enoch in his later response to Velleman refers to as “dialectical inescapability.” The former pertains to us as human beings; the latter to our status as agents. The notion of natural inescapability emphasizes that “as a human being” you cannot but have the aforementioned aim and, as a consequence of being “naturally endowed” with it, you must, qua species member, engage in processes of practical deliberation and reasoning that turn you into an action-performing autonomous agent. The dialectical version of inescapability, also propagated by Ferrero, was already mentioned above. It stresses that asking and formulating Enoch-style challenges and questions presupposes occupying the very stance (namely the agential one) that the shmagency-challenge tries to unmask as merely optional. Posing the shmagent’s critical question, viz., why should I take up the agency-constitutive aim of self-understanding, already amounts to practically adopting that very aim of understanding oneself in the course of deliberation and action. Velleman summarizes: “To ask ‘why should I have the aim of making sense?’ is to reveal that you already have it” (Velleman 2009, p. 137).
Both, defenders of constitutivism and critics have formulated a shared rejoinder to Velleman’s claims concerning inescapability. In short they suggest that the constitutivists’ strategy of invoking inescapability continues to amount to a variety of ignoring the is-ought gap. The fact that we inescapably care about something does not render “moot” (Velleman) the question of whether or not one should care about the aim and/or activity in question and having/engaging in it. Enoch insists, too granting the inescapability of agency for the sake of argument, that “the move from ‘You inescapably Φ’ to ‘You should Φ’ is no better – not even the tiniest little bit – than the move from ‘You actually Φ’ to ‘You should Φ’” (Enoch 2011, p. 216). And in fact, even Velleman himself recognizes the continuing pressure of the issue of how to get from inescapability to normativity when he continues his discussion after the presentation of his two notions of inescapability. He acknowledges that “[t]he fact that you already have the aim constitutive of agency needn’t blunt the force of your demand for a justification of it” (Velleman 2009, p. 138). I cannot here rehearse all of the intricate steps of Velleman’s argument, but we must note that the critics of the inescapability-strategy continue to object to the general line of argument that underlies Velleman’s and the other constitutivists’ argument. There remains a seemingly unbridgeable gap between us being condemned to do certain things and to adopt certain stances, on the one hand, and these phenomena providing the basis for unconditional practical authority, on the other. Is there a way to overcome this gap?

4. An example and the counterfactual strategy
Another way to summarize the ongoing debate between those who regard inescapability as a promising anchor for sourcing normativity and those who oppose this strategy is to ask whether or not “ought implies need not.” We are familiar with the hotly debated slogan of “ought implies can.” Its controversial nature notwithstanding, many people, not only moral philosophers, regard this slogan as illustrating an important pre-theoretical intuition concerning the prerequisites of being subject to normative requirements. It seems right to restrain one’s blame with respect to someone who fails to save Singer’s drowning child because she is tied to a wheel chair, for example.

In a similar vein we are able to condense the above-rehearsed debate between constitutivists and their critics into an examination of the question of whether one is subject to a normative ought even if, at the same time, she can’t help but engage in the activity which is the subject matter of that very ought. Take again the example of the drowning child and imagine a scenario in which a person gets forced at gun point to perform the rescue. This scenario depicts an agent who chooses and engages in an action that she cannot but perform (of course, she could always choose to die but we simply ignore this options in order to work with reasonable conceptions of coercion and compulsion). Rescuing the child is an action chosen by the agent because it is inescapable. There is no relevant alternative to performing it.

Now there seems to be a variety of possible ways of further conceiving of the relationship between inescapability and normativity in the rescuing-at-gun-point scenario. More precisely, it can be spelled out and conceptualized in three different ways. Firstly, one can identify the compelled person as being subject to a categorical normative requirement to rescue the drowning child exactly because gun-point creates the relevant
kind of inescapability. Choosing that action is non-optimal and something she has to do. According to this first conceptualization of the scenario the inevitability of rescuing the child, far from undermining the normative force of having to rescue it, conclusively establishes the normative force of that action’s status as obligatory. Inescapability is a sufficient condition for normativity to obtain. Secondly, one might say that while the inescapability of rescuing the child does not generate and guarantee the normative non-optionality of doing so, it remains at least compatible with it. Hence, just because one finds oneself compelled to do something, this does not undermine the applicability of normative categories regarding the compelled agent in question. Thirdly, however, some of our intuitions seem to point towards the exact opposite direction as the one triggered by the first one. In line with what was already briefly mentioned above, the fact that our agent has no choice but to rescue the drowning child conclusively undercuts the applicability of any normative categories to her. Since engaging in rescuing the child is a non-optimal characteristic of the agent in question it appears “useless” and “unfitting” to regard her as being subject to the language of oughts and ought-nots. It is this third variety of conceptualizing the gun-point rescue that expresses the commitment to the principle “ought implies need not.” According to this principle, a necessary condition for an agent being subject to a normatively authoritative demand exactly is that she does not inevitably have to engage in the action that the demand requires. Ought our agent rescue the child? The answer according to the third way of interpreting the relationship between inescapability and normative authority is that the question simply is malformed in this case. Only if she need not rescue the child does it make sense to regard her as being required to do so (given that there are other, morally substantive, reasons to do so).
I want to suggest that one way of clarifying our conflicting intuitions concerning the adequacy of the ought-implies-need-not principle is to rely on the device of supplementing a counterfactual scenario to the three-way analysis. One way to examine whether or not an obligation is present in the gun-point scenario is to deliberately ignore those very features of it that render the choice in question determinate and see what happens. In the case of our agent we can ask: Would she be under a normative requirement to rescue the child, if, ceteris paribus, no gun were pointed at her head? In the case at hand, the answer seems to be a clear “yes.” One would be under the respective obligation to rescue.

Now one first crucial claim submitted here is that the outcome of this counterfactual “test” can be employed in order to undermine the force of the ought implies need not principle and hence of the third conceptualization that has ruled out the compatibility of inescapability and normativity. When the test puts our agent in an alternative hypothetical context in which the action of rescuing the child is escapable, the obligation does not fail to materialize and does not disappear. The normative requirement of having to save the child applies to her. And this remains the case even if in the actual action context the agent cannot but perform the respective action. It is true, and this much must be conceded to the advocate of the ought-implies-need-not principle, that it seems contrived to describe our agent as actually discharging an obligation that she is subject to. In our example it is assumed that the agent, regardless of whether or not she would have rescued the child in the alternative scenario, acts because of the gun pointed to her head. But whether or not she would have rescued the child in the alternative sequence is not the crucial question of the counterfactual strategy. Rather, the question we are dealing with is
whether or not it remains coherent to conceive of the agent as being subject to a categorical normative requirement even if the inescapability in question obtains. And supplementing the counterfactual analysis suggests that normativity, at least, is not ruled out by inescapability (not even by compulsion and coercion). Even if the gun at your head forces you to do the right thing, you still ought to do it. Hence, the presence of a must does not in and of itself render inapplicable an ought. But does the presence of an inescapable must do more than that and does it guarantee an ought?

Certainly not as a quick reflection on the gun point case straightforwardly shows. We return now to the first conceptualization of the relationship between inescapability and normativity, the one that regards the presence of inescapability as sufficient for normativity (not necessarily morality though) to emerge. The inescapability of something in and of itself does not at all guarantee the justification of it qua normative requirement as an alternative example easily shows. When someone forces our agent to torture an innocent person at gun point, and when we assume that this again creates a situation of relevant inescapability, we see that this inescapability fails to generate normative authority over our agent. We cannot say of the threatened agent that she ought to torture the victim. Hence, the first conceptualization of the gun point scenario too breaks down. Unqualified inescapability does not suffice to create and guarantee normativity. And this is the piece of the debate that the critics of constitutivism have gotten right and that one can illustrate in the following way: like in an optical illusion the appearance in the above example, that the inevitability of rescuing the child generates the normative authority of the obligation to do so, tends to misguide us more generally when the non-optionality of agency is taken as a guarantor of its constitutive aims and principles’ authority. When
constitutivists invoke the supposed power of inescapability they are always very quick in declaring their optimism that something like the first conceptualization is potent enough to cut off radical skeptical challenges.

On closer inspection, however, we have to acknowledge that the presumed inescapability is not doing the work it is supposed to do in the constitutivist paradigm’s account of normativity: it is not any inescapability that accounts for the normative and reason-giving force of having to rescue to child – something else does. Similarly, and closer to home, such things as the Kantian principles of practical reason (Korsgaard) and the aims of intelligibility and self-understanding (Velleman) qua constitutive features of agency and standards of action too then must gain their normative authority from something different than their inescapability. That our inescapable plight of having to be agents forces us to accept and acknowledge certain things does not yet give us a sufficient answer to the question of whether or not we ought to do so (were we able to make such a choice). On the other hand, however, it is important to keep in mind that we also showed that this forceful imposition does not necessarily rule out simultaneous normativity. The counterfactual move asked us to imagine what would happen to a supposed normative demand, if engaging in the action that it asks us to perform were escapable. The answer was that ought does not imply need not and that the inescapability of something does not undermine its normativity character.

5. Katsafanas’ defense of inescapability
Before we conclude the defense of the view that inescapability and normativity are better decoupled from one another and are better regarded as occupying two distinct conceptual spheres, an argument by Paul Katsafanas should be considered. This argument is worth discussing because it allows us to deal with a more general objection to the above analysis, namely that an ambiguity is involved in the three ways of conceptualizing the relationship between “must” and “need not,” on the one hand, and “ought,” on the other. When constitutivists refer to the inescapability of certain aims and tasks, the objector continues, don’t they refer to a distinct variety of inescapability, namely one that identifies certain aims and tasks that are “normatively relevant”? And doesn’t this feature of the constitutivists’ strategy allow them to successfully bridge the gap between must and ought?

Something along the lines of this objection underlies Katsafanas defense of constitutivisms’ inescapability-strategy against the criticism by Enoch quoted above. Remember that according to Enoch “[t]he move from ‘You inescapably Φ’ to ‘You should Φ’ is no better – not even the tiniest little bit – than the move from ‘You actually Φ’ to ‘You should Φ’” (Enoch 2011, p. 216). Katsafanas agrees that constitutivisms’ appeal to inescapability would be in trouble, if it really took on the form that Enoch suggests it does. The way Enoch describes the strategy it would indeed result in the impossibility of getting from inescapability to normativity because it would fall prey to the is-ought schism. However, Katsafanas charges Enoch with blatantly “misstating” the constitutivist move. In an unfortunately rather short passage Katsafanas insists that “[t]he move is not from ‘you inescapably Φ’ to ‘you should Φ.’ Rather, the aim-based version of constitutivism moves from ‘you inescapably aim at Φ-ing’ to ‘you should Φ.’” And in
an important footnote he immediately adds: “Notice that the move is not from ‘you inescapably aim at Φ-ing’ to ‘you should aim at Φ-ing.’ Rather, it is from ‘you inescapably aim at Φ-ing’ to ‘you should Φ’” (Katsafanas 2013, p. 56).

Katsafanas strategy in this passage well illustrates the general objection that needs to be addressed in this section, i.e., the objection that constitutivism, far from simply deriving normativity from the inescapable engagement in an activity, is capable of generating normative conclusions because of the specific nature of those activities that are singled out as inescapable. Merely doing something does in fact not generate normative standards; not even when the activity in question is inescapable, the objector and Katsafanas grant. When the activity in question consists in aiming of some sort, however, then standards of success inevitably evolve and unfold their normative authority. Katsafanas illustrates this point by contrasting two cases of catching one’s foot on a crack in the sidewalk and tripping as a result (Katsafanas 2013, pp. 56-57). For the constitutivist there is a decisive difference between, on the one hand, catching one’s foot on the crack and, on the other, aiming to catch one’s foot on a crack in such a way that it causes one to trip (because, for example, one wants to feign an injury). Katsafanas concludes: “It is aims, not mere activities, that generate standards of success” (Katsafanas 2013, p. 57).

Now Katsafanas realizes that one consequence of drawing this distinction between aiming and activities (that was initially supposed to rescue the move from inescapable activities towards normative standards!) is that inescapability completely drops out of the picture of explaining why the normative standards in question are normative. He realizes that the above conclusion applies to all possible and actual aims –
escapable and inescapable alike. Katsafanas admits that “[c]onstitutive aims differ from ordinary aims [like the aim to catch one’s foot; C.H.] only in that constitutive aims are inescapable, whereas ordinary aims are not. It isn’t the inescapability that is reason-providing. The aim itself – any aim – is reason providing. The inescapability is just about how ubiquitous the aim is, not about why it is reason-providing” (Katsafanas 2013, p. 57).

This is a puzzling and curious claim that Katsafanas establishes in this passage. In short, declaring all aims to be reason-providing seems way too weak for the purposes of constitutivism. This is especially so since the section we’re currently investigating was supposed to refute Enoch’s criticism of the claim that we get from inescapability to normativity. As usual, Enoch will happily agree that if one has/endorses the aim of catching one’s foot, then success standards apply to her in virtue of her having that aim. But the strength of Enoch’s (and other anti-constitutivists’) challenge exactly is that we are always able to ask why we should have that aim in the first place. And it is at this point that inescapability is supposed to unfold its distinctive, normativity-guaranteeing, power. Unfortunately, and now we return to Katsafanas’ first part of his reply to Enoch, with respect to that issue, Katsafanas’ argument once again illustrates the trouble with the inescapability strategy. He responds to Enoch by recharacterting the inescapability move as being concerned with an inescapable aim that we all have – as opposed to Enoch’s formulation that premises the argument on an inescapable activity. Katsafanas claims that the fact of us inescapably aiming at something (e.g. intelligibility in action) allows us to draw the normative conclusion that we should engage in that aimed-at activity.
But is it that easy? Does the “should” really follow from inescapably aiming? In concluding I want to suggest that this is not the case. It is the aforementioned footnote that highlights the problem with Katsafanas strategy most clearly. In short, he simply seems to push back the problem to a different level, thereby failing to solve the problem of getting from inescapability to normativity. Recall that he says that the constitutivist move does not consist in moving from “you inescapably aim at \( \Phi \)-ing” to “you should aim at \( \Phi \)-ing” but rather in the move from “you inescapably aim at \( \Phi \)-ing” to “you should \( \Phi \).” The latter, stronger, move is more postulated than argued for, however. In response to Katsafanas, Enoch will certainly insist that it is the first transition mentioned, from “inescapably aiming at \( \Phi \)-ing” to “you should aim at \( \Phi \)-ing,” that the constitutivist really needs to establish. After all, aiming at something (regardless of inescapable or not) is itself an activity. And even if one finds oneself inescapably engaged in the activity of aiming, whether or not one should so aim remains the open question. By means of identifying aims as the inescapable feature of the constitutivist strategy, Katsafanas runs into the very same problem again because the question of whether or not inescapable aims generate normativity remains well intelligible. Enoch’s criticism is not disarmed by apparently switching from activities to aims. As it turns out, aiming is itself an activity and whether or not one should engage in it remains a potentially pressing question, even if the aiming in question is inevitable. That I inescapably aim at \( \Phi \) (a fact of the very same kind as Enoch’s “I inescapably \( \Phi \)”) does not provide an answer to the question of whether or not I should aim at \( \Phi \), let alone Katsafanas conclusion that I should \( \Phi \).

With respect to the general objection currently discussed this engagement with Katsafanas shows that observing the diverse qualities of the different inescapable features
of agency does not help with rescuing the first conceptualization of the relationship between inescapability and normativity. Initially, Katsafanas’ argument seems to exhibit some force: inescapably doing something fails to create normativity; but inescapably aiming at something seems to do so. I have argued that this initial impression is incorrect. Even if it is aiming at something that is inescapable, this remains an activity of which we can continue to ask Enoch’s question and demand reasons for why we should so aim. Similar arguments apply to Korsgaard’s and Velleman’s renderings of what it is that is inescapable in the course of agency. And this negative result concerning the first conceptualization allows us to draw a final conclusion with respect to the defense of the second, neutral, way of conceiving of inescapability and normativity: even if the “must” in the inescapability clause amounts to something along the lines of rational compulsion and deliberative practical necessitation, it is still a must with respect to which we can ask whether or not we ought to accept its purported normative authority. Regardless of how the must is spelled out then, it does not guarantee an ought.

6. Conclusion

The previous section on the Katsafanas-Enoch exchange was concerned with a (futile) attempt to rescue the first variety of conceiving of the dialectic between inescapability and normativity, viz., the claim that inescapability is a strong guarantor of normativity. Katsafanas had hoped that identifying the activity of aiming as inescapable creates categorical normative standards and reasons. This attempt failed because “aimings” too are activities of which we can ask whether or not there are reasons to engage in them –
even if the aimings are our inexorable plight. We must not forget, however, that we also established in the second section that the third way of conceptualizing the relationship between inescapability and normativity is too extreme. It is not true that “ought implies need not” and inescapably aiming and acting does not per se rule out that the constitutive norms pertaining to these activities turn out to be normative. A positive answer to the counterfactual question of what would happen to the constitutive norms of a specific activity if that activity weren’t inescapable rescues the norms’ normativity even if the activity in question actually is inescapable.

We are therefore committed to endorsing the second, moderate and neutral, option of how to think about the relationship between inescapability and normativity. The inescapability of an aim, task, activity, etc. neither guarantees that its constitutive aims and norms have normative authority over those who are subject to the inescapability in question; nor, however, does that kind of inescapability render incoherent or unfitting the possibility that agents are unconditionally subject to an ought pertaining to this inescapable aim, task, activity, etc. All this suggests that inescapability does not add anything with respect to the normative status of specific norms and principles. Constitutivists as well as their (third-variety-type) critics are both wrong when they focus the debate on the supposed inescapability of agency and its features.

Where does this leave us concerning the prospects of constitutivism qua theory of normativity? A positive case for constitutivism of course needs more than just the claim, defended above, that “need-not” is not a necessary condition for normativity to apply to an agent. Having vindicated that inescapability is not necessarily a threat to normativity is not nothing, given the criticisms presented by anti-constitutivists. However,
constitutivism still has to show more clearly what role inescapability (as opposed to the normatively relevant features of the object that one is inescapably subject to) plays in generating unconditional normativity. Alternatively, and this route was suggested above, future constitutivists might want to ignore the issue of inescapability altogether and try to vindicate normativity differently. Inescapability and normativity belong to different conceptual levels and conflating the two has tempted us into looking for the force of practical requirements in the wrong place.

Acknowledgments

References


