

NORMS, NORMATIVE UTTERANCES, AND NORMATIVE PROPOSITIONS

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Abstract

It is argued that the distinction between the normative and the descriptive interpretation of norm sentences can be regarded as a distinction between two kinds of utterances. A norm or a directive has as its content a normative proposition. A normative (performative) utterance of a normative proposition in appropriate circumstances makes the proposition true, and an assertive (descriptive) utterance has as its truth-maker the norm system to which it refers. This account of norms, norm-contents, and utterances of norm sentences solves Jørgensen's problem: logical relations among norms can be defined in the usual way in terms of the truth-conditions of the normative propositions which form their content. There is no distinction between the logic of norms and the logic of normative propositions; in this respect the present account differs from Carlos Alchourrón and Eugenio Bulygin's account of the logic of normative propositions.

KEY WORDS: norm - normative propositions - logic of norms - logic of normative propositions.

Resumen

Se argumenta que la distinción entre la interpretación normativa y la descriptiva de las oraciones normativas puede ser considerada como una distinción entre dos tipos de emisiones. Una norma o directiva tiene como su contenido una proposición normativa. Una emisión normativa (operativa) de una proposición normativa en circunstancias apropiadas hace verdadera la proposición y es el sistema de normas al que se refiere una emisión asertiva (descriptiva) el que la hace verdadera. Esta concepción de normas, contenidos de normas y emisiones de oraciones normativas resuelve el problema de Jørgensen: las relaciones lógicas entre normas pueden ser definidas de manera usual en términos de las condiciones de verdad de las proposiciones normativas que forman su contenido. No hay diferencia alguna entre la lógica de normas y la lógica de proposiciones normativas; en este aspecto la presente concepción difiere de la concepción de la lógica de proposiciones normativas de Carlos Alchourrón y Eugenio Bulygin.

PALABRAS CLAVE: norma - proposiciones normativas - lógica de normas - lógica de proposiciones normativas.

I

In the late 1930's Jørgen Jørgensen and a number of other philosophers were interested in the following problem concerning the logic of imperatives

and directives. According to the standard conception of logical entailment, a conclusion follows logically from certain premises if and only if the conclusion cannot be false if the premisses are true. Thus it is essential for logical inference that the premisses and the conclusion are sentences which can be true or false. But since imperative sentences do not fulfill this condition, they cannot function as the premisses or conclusions of logical inferences, and it is therefore in principle impossible to justify an imperative by means of logical reasoning. (Jørgensen 1938, p. 184.) On the other hand, Jørgensen notes that it seems equally evident that there are “inferences in which one or both premisses as well as the conclusion are imperative sentences, and yet the conclusion seems just as inescapable as the conclusion in any syllogism containing sentences in the indicative mood only.” (Jørgensen (1937-38, p. 290.) Here is one of Jørgensen’s examples (1937-38, p. 290):

Love your neighbor as yourself!
 Love yourself!
 (Therefore:) Love your neighbor!

This seems to be an example of valid reasoning with imperatives.

The word ‘imperative’ should be taken here to refer to an imperative speech act or its content, not to the grammatical mood of a sentence. Thus the expression ‘imperative’ is regarded here as interchangeable with ‘directive’ or ‘command’. It is clear that Jørgensen’s dilemma concerns normative discourse in general: norms cannot be said to be true or false. It is therefore a problem for the logic of norms (deontic logic).

Jørgensen’s countryman Alf Ross called this problem “Jørgensen’s dilemma”. (Ross 1941, p. 55.) This problem has continued to engage philosophers until the present: G. H. von Wright published in the 1990’s a paper entitled ‘Is There a Logic of Norms?’ (von Wright 1996), and David Makinson (1999, pp. 29-30) has called Jørgensen’s dilemma “a fundamental problem of deontic logic”.

II

Jørgensen (1937-38, p. 290) suggests two possible ways of solving the problem.

- (1) We may widen the concept of valid inference in such a way that it need not be defined in terms of the concept of truth, but some semantic feature which can be regarded as analogous to truth. (Cf. Grue-Sørensen 1939, p. 197.) According to this proposal, logic can be said to have “a wider reach than truth” (von Wright 1957, p. vii).

- (2) Secondly, we can try to solve the puzzle by defining the validity of imperative reasoning indirectly, in terms of the truth-values of statements or propositions which are related to the imperatives in a suitable way. In this way of dealing with the puzzle, the logical relations among imperatives are regarded as being constituted by relations among certain propositions associated with the imperatives.

Albert Hofstadter and J. C. C. McKinsey (1939, p. 447) adopted the first approach, and suggested that the concept of *satisfaction* can replace the concept of truth in the definition of validity and inconsistency for imperatives. An imperative or a directive cannot be said to be true or false, but it can be satisfied or not satisfied by the actions of the addressee. An imperative is satisfied if (and only if) what is commanded is the case. In another variant of this approach, logical relationships among directives are defined in terms of the “validity” of a directive or a norm so that the concept of validity plays the same role in the analysis of normative reasoning as the concept “truth” in indicative reasoning. This use of the word ‘valid’ can be distinguished from the concept validity used in the evaluation of an argument (logical validity) by calling the former notion ‘norm validity’. For example, Alf Ross has argued that our conception of logically valid normative reasoning is based on the validity of norms and directives. “The logical deduction of [a directive] I_2 from I_1 then means that I_2 has objective validity in case I_1 has objective validity.” (Ross 1941, p. 59; 1968, p. 172.) The validity of a norm means its “‘existence’ or ‘being in force’ – however these expressions are to be understood.” (Ross 1968, p. 172.)

In his own attempt to solve the problem, Jørgensen prefers the second approach, following a proposal made by Walter Dubislav. According to Dubislav (1937, p. 341), every directive (“Forderungssatz”) D is related to a certain statement (“Behauptungssatz”) $s(D)$ in such a way that our judgments about the logical relations among directives are determined by the logical relations among the corresponding statements: A directive F can be inferred from D if and only if the statement $s(F)$ associated with F is a logical consequence of $s(D)$. A set of directives or norms is regarded as inconsistent if and only if the set of the corresponding statements is inconsistent. What we take to be logical relations among imperatives are really relations among the statements associated with the imperatives.

According to Jørgensen, an imperative (or directive) can be analyzed into two factors which he calls the imperative factor and the indicative factor. The former element indicates that something is commanded

or requested, and the latter element describes what is commanded. (Jørgensen 1937-38, p. 291.) The indicative factor of the directive

(1) Risto, close the door!

can be expressed by the proposition (“indicative”)

(2) Risto closes the door,

or, to indicate that the proposition is not being asserted, by

(3) Risto to close the door.

(Cf. Peirce 1976, p. 248.) If the imperative factor (or directive factor) is expressed by the exclamation mark ‘!’, (1) has (according to Jørgensen) the form

(4) !(Risto to close the door).

The distinction between the content and the directive factor of a directive is a special case of the distinction between the illocutionary character and the content of a speech act. If $D = !A$, where A is a proposition, Jørgensen takes A to be the “indicative” (proposition or statement) $s(D)$ which determines the logical relations of D to other directives, and he regards imperative reasoning (or reasoning about directives) as reasoning about their propositional contents:

(5) An imperative $!B$ is said to be derivable from $!A$ if and only if the statement B is a derivable from A .

In this way “the imperative factor is so to speak put outside the brackets much as the assertion-sign in the ordinary logic [logic of statements], and the logical operations are only performed within the brackets.” (Jørgensen 1937-38, p. 292). Thus the logic of imperatives is reduced to the logic of statements for which the concept of logical consequence can be defined in the usual way. According to this proposal, “there seems to be no reason for, and hardly any possibility of, constructing a special ‘logic of imperatives’,” as Alf Ross has observed (1941, p. 57).

In this method of analyzing imperative inference, the indicative (statement) $s(D)$ associated with a given directive is regarded as a proposition which expresses the content of the directive. Jørgensen observes

that the logic of imperatives could also be understood by means of another method of transforming imperatives into indicatives. In this method, imperative sentences are transformed into indicatives which say that “the ordered actions are to be performed, resp. the wished state of affairs is to be produced.” According to this method, the command “Close the door!” corresponds to the indicative “The door is to be closed.” (Jørgensen 1938-39, p. 292.) Thus the indicative counterpart of the command (1) is

(6) Risto is to close the door.

Jørgensen regards (6) as an indicative, but (6) seems to contain a normative or deontic element; it seems equivalent to ‘It is required that Risto close the door’. If the requirement (or obligation) expressed or created by a command is expressed by the deontic O-operator, (6) has the form

(7) **O**(Risto to close the door).

According to this construal of the logic of directives,

(8) $s(!A) = \mathbf{OA}$.

Here **OA** represents a deontic sentence and **!A** is a directive which is regarded as not having a truth-value. However, it is not evident that such sentences express true or false propositions; for example, Bengt Hansson (1971, p. 123) has observed: “A phrase like ‘it is obligatory that p’ is generally not considered to be a true or false statement.” The translation of directives into deontic sentences helps to solve Jørgensen’s problem only if it is supplemented by an account the truth-conditions or “truth-makers” of deontic sentences. According to Jørgensen (1937-38, p. 293), “Such and such action is to be performed” may be regarded as an abbreviation of the sentence form

(9) There is a person who is commanding that an action A is to be performed.

Jørgensen notes that sentences of this form are capable of being verified or falsified, and can be regarded as true or false; they do not prescribe or command anything, but state only that some person is issuing a command. According to this method, (6) corresponds to

(10a) It is commanded that Risto is to close the door,

or simply

(10b) It is commanded that Risto close the door.

It is clear that (9) cannot be said to be synonymous with

(11) A is to be performed,

but in this proposal it is assumed that the logical relations among deontic sentences and commands are determined by propositions of the form (9). I shall call this method Jørgensen's second method associating indicatives with imperatives.

III

Deontic logicians have often proposed to solve Jørgensen's problem by making a distinction between two interpretations of deontic sentences. A deontic sentence of the form **OA** can be interpreted normatively (or prescriptively) as expressing a norm, or descriptively as a normative proposition (norm-proposition), that is, a statement that A is obligatory according to some unspecified system of norms. (von Wright 1963, pp. 132-34, Stenius 1963, pp. 250-51, Alchourrón 1969, pp. 243-45, Alchourrón and Bulygin 1971, p. 121, Bulygin 1982, pp. 127ff., Alchourrón and Bulygin 1993, p. 285.) For example, the deontic sentence 'Motor vehicles must use the right-hand side of a road' can be understood as a directive addressed to drivers, or as a proposition which gives information about the traffic rules of some country. Normative propositions, unlike the norms themselves, are true or false, and the logical relationships among normative propositions can therefore be understood in the usual way in terms of the concept of truth. The descriptive interpretation of deontic sentences and formulas comes close to Jørgensen's second method of associating indicatives with imperatives. This distinction solves Jørgensen's problem if the logic of norms can be identified with the logic of normative propositions. (Cf. Stenius 1963, p. 251.) However, Carlos Alchourrón and Eugenio Bulygin have criticized this principle of "pre-established harmony" between the logic of norms and the logic of normative propositions, and argued that it is a serious logical mistake. (Alchourrón and Bulygin 1993, p. 285; cf. Alchourrón 1969, Alchourrón and Bulygin 1971, pp. 121-27.) According to Alchourrón and Bulygin, the logic of norm-propositions differs from the logic of norms (or deontic logic proper), and cannot serve as a substitute or basis for the logic of norms. For example, Alchourrón and Bulygin argue that the principle

$$O_S P \rightarrow \neg O_S \neg P,$$

where O_S is the descriptive O-operator for a system S and P is a proposition, does not hold: $O_S P$ & $O_S \neg P$ should be regarded as consistent, because a legislator can promulgate two incompatible norms (1993, pp. 290-91).

The distinction between the normative and the descriptive interpretation of deontic sentences can also be understood as a distinction between two ways of *using* such sentences: they can be used *normatively*, to create norms, or *assertorically*, to inform the hearer about the content of a system of norms. The distinction between the normative and the descriptive or assertoric use of deontic sentences goes back (at least) to Jeremy Bentham, who distinguished between *authoritative* and *unauthoritative* books of “expository jurisprudence”. A book is authoritative when it is composed by the legislator himself; and unauthoritative, when it is the work of any other person. (Bentham 1948, pp. 323-24.) Ingemar Hedén (1941, pp. 65-66) makes a similar distinction between “genuine” and “spurious” legal sentences, and Hans Kelsen (1960/1967, p. 355) distinguishes an “authentic” interpretation of law by legal organs from jurisprudential (“nonauthentic”) interpretation: only the former can create law.

The distinction between two ways of using norm sentences is a distinction between two kinds of *utterances* of normative propositions. A normative proposition, for example, the proposition that vehicles must use the right side of the road, can be uttered assertorically, to give information about an independently existing system of traffic regulations, or normatively or *performatively*, to give a command and thus create a norm (bring about an obligation). (Kamp 1979, pp. 263-64; Raz 1980, pp. 45, 47.) In the latter case, the utterance of the proposition in the appropriate circumstances (by a proper norm authority) has normative force, and is sufficient to make the proposition true; in the former case, the truth of the proposition depends on whether it fits a norm system whose content is determined independently of the utterance in question.

According to this interpretation, a normative proposition need not contain an explicit reference to a specific normative system. **OA** is a complete normative proposition, and its sense can be grasped independently of the system to which it belongs; thus the same normative proposition can belong to different systems. In this respect the present conception of deontic (normative) propositions differs from the characterization of norm-propositions given by Erik Stenius and Alchourrón and Bulygin. (See Stenius 1963, Alchourrón and Bulygin 1993.) If normative and descriptive utterances of a normative proposition **OA** have the same sense (content), the reference to a specific norm system S is not part of the normative

proposition itself; such reference and the truth-value of the proposition are determined by the context of interpretation. Normative propositions are true or false relative to a system of normative utterances which determine the identity of a normative system. In this respect descriptive utterances of normative propositions resemble indexical propositions.

The possibility of using norm sentences assertorically, to state that according to a norm system which is in force in a given situation, things ought to be in a certain way or something ought to be done, and normatively, to create norms, does not mean that strictly speaking, there is only a logic of normative statements, but no logic of directives or norms, as some philosophers have concluded. (Hedenius 1941, pp. 120-130, Moritz 1954, pp. 82-83, Williams 1963, pp. 30-36.) Norms have normative propositions as their content, and thus the logic of norms is the same as the logic normative propositions. However, the logic of normative propositions understood in this way differs from the logic of norm-propositions in Alchourrón and Bulygin's sense.

The utterer of a normative proposition can make the intended normative force of the utterance evident by expressing the proposition in the (grammatically) imperative mood or by adding to the utterance the word 'hereby', as in 'You are hereby required to close the door.' Adding the word 'hereby' to the utterance does not change its logical properties. In the case of legal norms and directives, normative utterances include the written inscriptions (occurrences) of norm sentences in authoritative legal texts and documents.

Hans Kamp (1979, p. 264) has observed that the assertoric use of deontic sentences depends on their performative use. G. H. von Wright seems accept a similar view when he writes (1963, p. 134):

The laws (principles, rules), which are peculiar to [the logic of descriptively interpreted expressions], concern the logical properties of the norms themselves, which are then reflected in logical properties of norm-propositions. Thus, in a sense, the 'basis' of Deontic Logic is a logical theory of prescriptively interpreted O- and P-expressions.

Consequently the proposal that logical relations among norms can be understood by studying statements of the form (9) puts the cart before the horse. Performative utterances of normative propositions constitute their own "truth-makers", and they also constitute the truth-makers of assertoric (descriptive) utterances of the same propositions. (For the concept of a truth-maker, see Mulligan *et al.* 1984, and Armstrong 2004.) Moreover, the content a descriptive utterance of a normative proposition (e.g.,

that Risto is required to tell the truth) must be the same as the content of the normative utterance “Risto, tell the truth!”; otherwise an assertoric utterance would not give a correct representation of the directive in question. In their performative use, the function of O- and F-sentences (obligation and prohibition-sentences) is to restrict the range of normatively acceptable options (“the field of permissibility”) available to a norm-subject (the addressee), whereas permission sentences have the opposite effect: they enlarge the set of normatively acceptable possibilities. An O-sentence **OA** excludes all possibilities in which A does not hold, and **PA** enlarges the set of acceptable options in such a way that they include some possibilities in which A is true. (Lewis 1979, p. 166; Kamp 1979, p. 264.) It is not always clear whether a deontic sentence is used performatively or assertorically. Assertoric utterances of deontic sentences can guide and direct the agent’s actions in the same way as their performative utterances. For example, in the case of a permission sentence, “either the utterance is a performative and creates a number of new options, or else it is an assertion; but then if it really is appropriate it must be true; and its truth then guarantees that these very same options already exist”. (Kamp 1979, p. 264.) The two kinds of utterances are informationally equivalent.

If normative and assertoric utterances of a given deontic sentence have the same content, a normative proposition, there is no difference between the logic of norms (directives) and the logic of normative statements. According to this view, Jørgensen made a mistake when he took the content of a normative utterance ‘!(Risto to close the door)’ to be the proposition that Risto close the door. According to the view put forward here, the content of the utterance is the *deontic* proposition ‘**O**(Risto to close the door)’. Therefore the formula (8) above,

$$s(!A) = \mathbf{OA},$$

shows the *content* of the directive !A, not only a statement or “indicative” which “corresponds” to the directive !A. According to the view proposed here, the sign ‘!’ should be regarded here as a sign of a kind of utterance rather than as a sign of a sentence type.) Jørgensen’s formulation of the indicative counterpart of a command,

There is a person who is commanding that such and such action is to be performed,

as opposed to “There is a person who is commanding that such and such action be performed”, suggests that the imperative element has not been

eliminated from the proposition, but is part of the content. (See (9) and (10) above.)

A normative system is not merely a system of utterances, but a system of norms identified by such utterances. The content of the system can be expressed by deontic (normative) propositions. The system derives its normative force from the normative (performative) utterances of norm sentences which identify the system and tie it to reality. Such utterances are the ultimate truth-makers of deontic propositions. If a normative system is regarded as a deductively closed system, it contains, in addition to the normative propositions expressed or formulated in the authoritative utterances, the logical consequences of such propositions. As was observed above, sameness of content is not a sufficient condition of the identity of normative systems: even if S_1 and S_2 contain the same normative propositions, they are distinct systems if they are based on different normative utterances. (Cf. Raz 1980, p. 128 n.1.)

According to the thesis that the logic of norms is the same as the logic of normative propositions, the validity conditions of norms are the truth-makers of normative propositions. The validity conditions of norms and directives depend on the kind of directive under consideration. In the case of simple imperatives (commands), we may assume that the utterance of an imperative, for example, "Risto, close the door!" is enough to make it valid and the corresponding normative proposition 'Peter is required to mail this letter' true; in this case "saying makes it so" (Cf. Lewis 1979, p. 166.) In the case of legal norms the question about norm validity is more complex: the mere utterance of a normative proposition does not ensure the validity of the norm (or directive) and the truth of the corresponding normative proposition if the utterer does not have the competence to issue the norm in question. The question about the validity conditions of legal norms is one of the central questions of legal philosophy, but it is not a question for the logic of norms; in the logic of norms it is presupposed that normative utterances can be valid or invalid.

Carlos Alchourrón and Eugenio Bulygin have made a distinction between two conceptions of norms, the *expressive* conception and the *hyletic* conception (1993, p. 273-74; 1981, pp. 95-100.) According to the expressive conception, normative systems are not sets of norms but sets of act-propositions commanded by a norm authority or a number of norm authorities. The normative element is not part of the semantics of norms, but belongs to the pragmatic level. If a norm is symbolized by 'p', the sign '!' indicates only "that the proposition p has been commanded... by an unspecified agent." (Alchourrón and Bulygin 1993, p. 273.) The expres-

sive conception resembles Jørgensen's first method of "translating" imperatives into indicatives. For the hyletic conception, norms are expressed by norm-sentences which possess prescriptive meaning. Thus norms are "abstract entities analogous to propositions, though they, unlike propositions, lack truth-values." (Ibid. p. 274.) Alchourrón and Bulygin call the contents of norm sentences "norm-lecta". According to the hyletic conception, a normative system is a system of norm-lecta (ibid., p. 274). The present view differs from Alchourrón and Bulygin's hyletic conception of norms only in the assumption that a "norm-lecton" (that is, a normative proposition) can be true or false. A normative proposition is true or false (relative to a norm system determined by certain normative utterances) as the content of an assertoric utterance, and as the content of a normative utterance, such a proposition is made true by the utterance itself, together with the validity conditions of the norm system.

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