

DELIBERATIONES

Scientific Periodical of Gál Ferenc College

Principles of norm creation
international symposium

Gál Ferenc College
Szeged, February 27th, 2015

Special Edition

Vol. VIII. No. 3. – Special Edition 2015/3

DELIBERATIONES
Scientific Periodical of Gál Ferenc College

Vol. VIII. No. 3.

Special Editon

Editor in chief
KOZMA GÁBOR

Editors
JOLANTA KARBOWNICZEK,
TAMÁS LISZKAI, ANTON KONEČNY,
JÓZSEF KOVÁCS, LÁSZLÓ ODROBINA
ANDREA SZIGETI
PÉTER ZAKAR, TADEUSZ ZASĘPA

Design
Bea Kiss and Péter Varga



Published by Gerhardus Press
Publisher: Dr. Kozma Gábor rector
Address: H-6720 Szeged, Dóm square 6.

Press: A-Színvonal 2000 Nyomdaipari Kft.
ISSN 1789-8919



PRINCIPLES OF NORM CREATION
international symposium

Gál Ferenc College
Szeged, February 27th, 2015

THE SIGNIFICANCE OF NORMATIVE AND NON-NORMATIVE ETHICS.	5
PROF. DR. ÖRSAN K. ÖYMEN	
IUS, FAS, MOS: THE EMERGENCE OF NORMS	11
DR. NÁNDOR BIRHER	
THE DEFECTS AND FAILURE OF THE ETHICS INTRODUCED BY ADOLF HITLER	21
DR. ESIÖBU ANAYO AUGUSTUS	
ON THE LINGUISTIC AND ETHICAL ASPECTS OF LEGAL NORM FORMATION.	29
DR. CSABA LATORCAI	
BIBLICAL FOUNDATIONS OF MORAL NORMS IN CATHOLIC MORAL THEOLOGY.	37
DR. LÁSZLÓ GRUBER	

THE LAW AND THE GOSPEL
AS THE BIBLICAL FOUNDATIONS
OF THE NORMATIVE ETHICS. 45
DR. GÁBOR CZAGÁNY

THE RELATIONSHIP BETWEEN
THE LEGAL SYSTEM AND MORAL ORDER. 51
DR. ANDREA SZIGETI

THE SIGNIFICANCE OF NORMATIVE AND NON-NORMATIVE ETHICS

Ethics is a subdiscipline of Philosophy. Ethics is the Philosophy of Morality. Ethics is not identical to morality by itself. Ethics is the philosophical analysis of morality and moral issues. In some disciplines, as well as in popular culture, the term “Ethics” and “Morality” is usually used to refer to the same meaning. However that is not appropriate in the discipline of Philosophy.

Ethics has basically two dimensions: Normative Ethics and non-normative Ethics. (I consider so called “Meta-Ethics” as part of non-Normative Ethics. Based on the above mentioned definition of Ethics the term “Meta-Ethics” is a contradiction. What is within the sphere of Ethics can not at the same time be “beyond” or “after” Ethics).

Normative Ethics is about particular norms, principles, rules, imperatives, duties, standarts and criteria which enable us to determine how we should act, choose and live. Normative Ethics is about “ought to” statements and tries to answer questions about the goal of life, about what is morally good and bad, correct and incorrect, right and wrong, about how human beings should act and choose. Normative Ethics is prescriptive. Eudaimonism, hedonism, utilitarianism, altruism and egoism are examples of theories in Normative Ethics.

Many philosophers from Ancient Greece to contemporary times tried to set a goal for life. For some philosophers it was happiness, for some philosophers it was pleasure, for some philosophers it was tranquility, for some philosophers it was benefit and utility, for some philosophers it was a combination of some or all of these states.

Most philosophers developed their normative theories on an altruistic or semi-altruistic foundation with an emphasis on the happiness, pleasure, tranquility, benefit and utility of the society

as a whole and a few philosophers developed their normative theories on an egoistic foundation with an emphasis on the happiness, pleasure, tranquility, benefit and utility of the self and individual only.

Some philosophers concentrated on the happiness, pleasure, tranquility, benefit and utility in “this life”; some philosophers concentrated on the happiness, pleasure, tranquility, benefit and utility in “after life”, seeking for eternal happiness, pleasure, tranquility, benefit and utility.

Happiness, pleasure, tranquility, benefit and utility did not only emerge as a goal of life but also as a criterion to distinguish good from bad and right from wrong. Whether a human action, choice and behaviour is good or bad, right or wrong is determined whether it is related to happiness and/or pleasure and/or tranquility and/or benefit and utility or not. If an action, choice and behaviour is related to happiness and/or pleasure and/or tranquility and/or benefit and utility it is considered as a good and right action, choice and behaviour. If an action, choice and behaviour is not related to happiness and/or pleasure and/or tranquility and/or benefit and utility it is considered as a bad and wrong action, choice and behaviour and is considered as something to be avoided. In normative Ethics, states like happiness, pleasure, tranquility, benefit and utility are not only significant for setting a goal for life but also significant to determine and define good and bad, right and wrong, which are basic concepts in normative Ethics.

An additional important aspect in studies of normative Ethics is the distinction between religious and non-religious morality. The human being is a social being always in a state of choice and action. Thus the human being is by nature inevitably a moral being. Morality is not something under the monopoly of religion. Morality emerges in various areas such as tradition, religion, philosophy, literature, politics and law. The history of morality is older than the history of the monotheistic religions such as Judaism, Christianity and Islam. Scientists believe that the history of morality is as old as the history of the human being. Thus morality can not be reduced to religious morality based on a so called revelation. A study in normative Ethics requires

an analysis of morality in various disciplines and different periods.¹

Non-normative Ethics does not cover normative issues. Non-normative Ethics is about philosophical problems which are inevitably related to Normative Ethics but it does not present a formula and/or suggestion about normative issues. Whether there are universal and/or objective moral principles and values or whether such principles and values are relative and/or subjective; whether we can talk about a standard human nature and if we can, what that is; whether moral motivations, judgements, principles and values derive from reason and/or emotion and/or instinct; whether there is a free will immune from radical determinism or not are some of the basic questions and issues in non-normative Ethics. Although a non-normative issue is often transformed into a normative issue, non-normative Ethics by itself is descriptive. Universalism, relativism, objectivism, subjectivism, rationalism, emotivism, determinism, soft-determinism, compatibilism and indeterminism are examples of theories in non-normative Ethics.

Universalism defends the thesis that there are universal moral principles and values. Universalism may emerge in two forms: Objectivity and inter-subjectivity. Objectivism defends the thesis that there are mind / soul independent objective moral principles and values in external reality. Inter-subjectivism defends the

1 In literature, the Ancient Mesopotamian text *The Epic of Gilgamesh* and the Ancient Greek texts of Homer such as *The Iliad* and *The Odyssey*, in philosophy, the Ancient Greek texts of Plato such as *The Republic*, *The Laws*, *Phaedo*, *Philebus* and *Timaeus* and the Ancient Greek texts of Aristotle such as *Nicomachean Ethics* and *Eudemian Ethics* are also an indication that both morality and Ethics emerged independent and disconnected from Judaism, Christianity and Islam. Besides these works of the pre-Medieval times, also works of the post-Medieval times such as those of John Locke (*Two Treatises of Government*), Jean-Jacques Rousseau (*The Social Contract*, *The Origin and Basis of Inequality Among Men*), David Hume (*A Treatise of Human Nature*, *An Enquiry About The Principles of Morals*) and Immanuel Kant (*Fundamental Principles of the Metaphysics of Morals*, *Critique of Practical Reason*, *Metaphysical Principles of Moral Philosophy*) indicate that non-religious secular morality is quite important in the study of Ethics and that it is essential to study morality and Ethics from a historical perspective.

thesis that there are no mind / soul independent objective moral principles and values in external reality but that all subjects, in other words all minds and souls, given particular conditions, can reach a common conviction and belief about some basic moral principles and values. On the other hand, relativism and subjectivism defends the thesis that, all moral principles and values are relative and subjective limited to a particular individual and/or society and/or culture, that there are no universal, objective and inter-subjective moral principles and values and that there is no possibility of reaching a consensus on any moral issue.

Rationalism is the view that moral motivations, judgements, principles and values derive from reason. Emotivism on the other hand is the view that moral motivations, judgements, principles and values derive from emotion and/or passion and/or instinct. However, a synthesis between rationalism and emotivism is also a significant approach. This approach defends the view that reason, emotion, passion and instinct all play a role in the emergence of moral motivations, judgements, principles and values.

Determinism, or radical determinism, is the thesis that there is no free will and that all so called human action and choice is determined by external causes and that we can not talk about human choice but only about human behaviour. Thus, according to radical determinism, morality is an impossibility because both morality and normative Ethics must necessarily assume the possibility of a free will and free agent. Indeterminism rejects any type of determinism and defends the view that the human being is able to act and choose according to his/her free will. Compatibilism, also known as soft-determinism, accepts both causality and free will and holds the view that free will and causality are compatible.

After establishing these basic distinctions and formulating the basic issues of Ethics, it must be said that, Ethics reduced to non-normative Ethics can not serve as a guide to the human being and society. Such an understanding of Ethics can only be conceived as a Science of Morality. Ethics reduced to a Science of Morality is incompatible with the concept of a human being as a moral and social being. On the other hand, Ethics reduced to normative Ethics will inevitably result in a superficial understanding of

morality and will lack a quality in philosophical argumentation and justification. It is simply not possible to answer the questions in normative Ethics without answering the questions in non-normative Ethics. The debates in non-normative Ethics are essential in developing moral theories in normative Ethics.

As a conclusion, both normative Ethics and non-normative Ethics need to be understood as two essential and necessary aspects of a unitary whole which we call Ethics. This is essential for future studies in the discipline of Ethics.

*Professor Dr. Örsan K. Öymen
Faculty of Arts and Sciences
Head of Department of Humanities and Social Sciences
Işık University, Turkey*

IUS, FAS, MOS: THE EMERGENCE OF NORMS

There is relatively scant literature in Hungary that proposes a clear distinction between normative and non-normative forms of ethics. Studying the topic in this conceptual context is nevertheless a worthy and in fact quite important enterprise. Normative ethics, also called prescriptive ethics, starts out from the constant moral a priori, the ‘ought to be’ rooted deep in human reason or in the very nature of the human being. The human being has a duty in this world that she or he cannot shun if she or he is to remain truly human.

“Duty! Sublime and mighty name that embraces nothing charming or insinuating but requires submission, and yet does not seek to move the will by threatening [...] but only holds forth a law that of itself finds entry into the mind [...] a law before which all inclinations are dumb [...]. It can be nothing less than what elevates a human being above himself (as a part of the sensible world) [...]”²

Contrary to the above, or, more precisely, approaching the topic of ethics at another epistemological level, one may observe that there also exist descriptive and/or meta-ethical approaches that ignore the ethical a priori of ‘ought to be’. A common feature of these approaches is that they all start out from the actual social realisation of morality and not from the command that distinguishes between good and evil. For the sake of simplicity, these approaches might be termed ethics of ‘is’. Descriptive ethics mostly limits itself to describing how society, politics, or, for that matter, the human psyche work, what people consider good or evil, regardless whether good or evil actually exist or

² Kant, Critique of Practical Reason, Cambridge Texts in the History of Philosophy, Edited by Mary Gregor, Introduction by Andrews Reath, pp. 73–74.

not. In a similar fashion, meta-ethics only studies the forms that morality assumes in language and thinking, while ignoring the actual content of duty.

These two horizons of interpretation are interlinked in Hans Kelsen's theory of law where he attributes binding force to formal legislative activity ('is'). A Neokantian, Kelsen does delve into the issue of 'ought to be' and concludes that norms cannot emerge from social realities; instead, norms can only emerge from themselves. A norm is a hypothetical judgment; it is a logical scheme, a conditional statement that includes the concept of "necessary" or "ought to be" in judgments that assume the form of "if... then...". It is not merely expressed as an "if A, then B" statement; it also incorporates the concept of 'let there be' ('ought to be'): "if A, then let there be B (there ought to be B)". However, at this level, Kant's moral a priori is reduced to nothing more than a purely logical form. Influenced by legal positivism, it is this approach that, to a certain degree, made the argument "I was acting under orders" acceptable during the Nuremberg trials (in the preparation for which Kelsen himself participated). If the act was formally legal (compliant with the norm), then it must be deemed lawful as the only foundation of any norm is the norm itself. In Kelsen's case, one may therefore observe how the normative and non-normative approaches to ethics are linked; however, as far as the creation of norms is concerned, this exercise has only been partially successful.

Are there alternate ways to link 'sein' and 'sollen', 'is' and 'ought to be' more harmonically? Where the "living right" present in society and the internal rules establishing binding force (morals) coincide with the external rules establishing binding force (customs, decency, rights)? Formulating the question more precisely, is it possible that the rules and regulations concerning individuals (law, conscience, culture, decency, normative ethics) and the social lives of those same individuals (non-normative ethics) coincide? Of course, a complete coincidence of the two can hardly be imagined since normative rules are always general ('ought to be' is a general statement or sensation) while any real life situation is always unique. However, one must find the greatest possible harmony between the two. This is more than

a task for ethics only; it is in fact a task for other branches of philosophy such as epistemology.

At the level of norms, Roman law offers us an attractive historical example of how the normative and non-normative approaches can be handled together, at the very source of which we find the tripartite principle of *ius, fas, and mos*. This is the approach that made the empire's long-term existence and progress possible. In itself, the law, *ius*, the lawfulness of behaviour is insufficient; in addition to mere compliance with rules and regulations, social stability also required compliance with the rules (of binding force) laid down by the gods, *fas*. This incorporated behaviours to not offend the gods. The days deemed suitable for legislation were therefore called *dies fasti*. Later on, the word *fas* came to mean the totality of all religious norms; even later, it also acquired an additional sense in the context of public law as *ius sacrum* and *ius pontificium*, which gave rise to divine law (*ius divinum*) in the era of the emperors. Also part of the package was a system of rules relevant to moral order (*mos*), an area under the supervision of the censor. *Mos* also covered the complex system of ancient social rules called *more maiorum*. The term *mos* was understood to incorporate customary law as well as simple customs without any legal aspect. One might therefore conclude that Roman law included both prescriptive rules (*ius*) and an ethics describing social order as well as a tradition handed down by the ancestors (*fas, mos*). In Roman law, rules of law were always interpreted starting out from fundamental principles that had been rooted in ethics but had acquired legal content, also taking into consideration the necessities of human life, thereby connecting the realms of 'ought to be' and 'is'. These common rules were as follows: *honeste vivere* (to live honestly); *alterum non laedere* (to injure no one); and *sum cuique tribuere* (to give to each his own). Above all these reigned the fundamental principle of objective justice (*iustitia*). It is another matter that fully harmonising these rules with life was never entirely successful. It was for this reason that Pontius Pilate asked "Quid est veritas?"

CURRENT ISSUES

In the rest of this paper we will examine how rules and their application may be brought closer in today's society. How is one to achieve respect for the law? Is applying formal external force the only way? Does the force of internalised commands offer an alternative? What should motivate the individual to comply with rules? Is it the fear of "getting caught" and having to answer (a non-normative approach) or an objective familiarity with good and evil (a normative approach)? We claim that in an ideal society the creation of norms – and within this legislation – is a reflection of everyday life and creates a unity between 'ought to be' and 'is' as well as between the realm of general rules and that of real life at its most specific. The only question is whether such an ideal society exists or is everything merely appearances?

In the human being, the normative 'ought to be' (the moral a priori) and his or her actual everyday actions (life as lived according to the rules) belong together. The human being is capable both of sharing "fairly" and understanding it. Primates only obtain food, trying to grab as much for themselves as possible; people aim at sharing their resources equally and, in fact, are able to give one another gifts. In other words, a fundamental ability to help, to inform, to share (a sense of justice) has emerged in the human being. There emerge groups within which these fundamental abilities can be put to use in a regulated fashion; groups that have an expectation that these rules will be complied with. In this context, regulation incorporates sanctions, the ultima ratio of which is the proclamation that any given individual belongs to, or no longer belongs to, the group.

The norms that emerge in this manner are not mere rules by which to play the game or means to get access to rewards; instead, they are supra-individual entities possessing a key societal force, and not just interlinked instrumental consequences. Social norms are thus "transcendental" in the sense that they do not simply adhere to authority, fear, the expectation of reciprocity, or language and public thinking (non-normative ethics), but they are also a priori givens (normative ethics). Their a priori existence is what ties them to people's consciousness of 'us'. It is such "intentionality of us" that enables human beings to make a

sacrifice or to help others. The a priori essence of norms is that they define “how we do this”. (As Christians, we might add “this is how we do this because we are a community and because we love each other”.)

The emergence of norms and the normative delineation of the consciousness of ‘us’ represents an evolutionary advantage that has given the human race its extraordinary fitness for survival. What has made a success story out of the survival of the community – of the consciousness of ‘us’ – has been precisely this set of fundamental social norms: the rules that govern the distribution of food and other goods, and the rules that regulate sexuality and implement a ban on incestuous relationships. The consciousness of ‘us’ is both an opportunity and a form of pressure. It gives any individual a place under the sun, while it demands that the same individual respect his or her fellow person’s place under the sun. At a higher emotional level, this is reflected as responsibility and love. In its true form, ethics is not a simple “you vs. me” relationship; it is rather a complex relationship of “us”.

Norms are not simply entities that exist and must be enforced (cf. Kelsen’s theory of law). Norms incorporate their own enforcement in their very existence. Simply put, any rules of law created essentially exist because it is only natural that the community wants to comply with them. Having to enforce norms only becomes a necessary evil when those norms, in and by themselves, are not complied with within the group. Complying with the norms, or looking at things from another perspective, collaboration, serves our common interests, while it also requires that we all share the burdens. Both these burdens and the advantages are shared by the entire group. Collaboration is a task that is highly complex by its nature. For collaboration to happen, a set of parameters are needed: a clear definition of the objective (communication, coordination), trust (tolerance), and group-level rules (a set of norms).

Only human beings have any conception of the abstract nature of how ‘we’ act as a community; only human beings are capable of understanding that the way ‘we’ act is regulated by rules and duties. Therefore what we see behind our set of norms is the a priori belief that our rules are also accepted by others. The

human being constructs a deontic world wherein she or he can then navigate with unconditional faith. And whoever questions the doctrines of this faith must face sanctions either through the individual's own conscience or through punishments meted out by the community, or, eventually, through final excommunication.

The way people think always assumes a metalanguage, the ability to think about the other person's thinking. This enables us to identify common objectives beyond those of the 'I' (in the classic case: family, state, and religion). This common attention, this common perspective serves as a context for our actions. Thus, it is in the world of 'we' where one finally sees combined and interrelated the 'is' and the 'ought to be', the normative and the non-normative forms of ethics, that which is eventually complied with and that which is formally valid.

Mutual attention requires a great degree of mutual trust. Trust can only exist if there is pre-existing mutual knowledge that the fruits of common efforts will be shared justly. Reciprocity and reliability are primary values in the eyes of the group, and they serve as the basis of applying norms. Sanctions are only applied in an emergency, when any dysfunctionality arises.

It is the norms created along the lines of common intentionality that facilitate the construction of complex institutional systems. Social norms have an intrinsic force that is partly based on the threat of sanctions and partly, and more importantly, on the fact that such norms are socially reasonable. This reasonableness lies in the fact that social norms afford the community a greater chance of common success. Each cooperating individual is aware that the outcome of his or her activities depends on the activities of others, and this awareness is mutual. The essence and validity of the norm arises from the fact that we mutually recognise our interdependence. The essence of reciprocity is that any one of us can assume any role at any moment in time, yet this will bear no effect on the relevant rule itself. The veil of ignorance will not allow us to ascertain what role any individual will be fulfilling in life; consequently, the only reasonable decision is consensus. In this sense, supporting the weak is not a transgression against a superior human being but a guarantee of a stronger and more cohesive community, a basic evolutionary requirement.

Research performed by Christakis contributes a great deal to our understanding of the importance of culture. He proves that my well being is significantly influenced by the well being of any acquaintance or any acquaintance of any of my acquaintances, even though I may not even know such an individual personally. People are much more connected than we have ever imagined. Ambitions of individual well being do not only pose a danger to the community; they also threaten the person's own individual well being. For if I try to achieve individual well being by taking advantage of those around me, the negative effects that this generates in the community towards me will never allow me to achieve my well being. When a human being, in an effort to maximise his or her own benefit, starts becoming similar to his or her fellow primates, she or he loses all the evolutionary advantages afforded by the consciousness of 'us'.

Representatives of the theory that law is an autopoietic system have also clearly stated that law is not merely a formal text and cannot be defined starting out from itself (no theorem of irrefutable theorems exists). In fact, a norm is a pattern fixed in individual consciousness that arises in the community of individuals and that can be changed continuously. A norm is not a rule but the functioning of the consciousness of 'us'. This consciousness of 'us' is dynamic, therefore so is the norm, and as this consciousness of 'us' is a tool in the hands of evolution, so is the norm.

Network thinking aims at identifying those key players in society (always taking into consideration all their historical aspects) that are instrumental in shaping the patterns that are later proclaimed by formalised law as legal order and that are implemented as legal practice. The network theory of law digs down to the very foundations of legislation and the application of law. Having accessed those foundations, it describes the very historical and dynamic patterns (the consciousness of 'us') that allow law to emerge to begin with either in a positive form or in its sociological form, pushing aside the issue that "fundamental laws" cannot be legally based, as well as law's dependence on sociological rules, or any number of attempts at solving the

issue starting out of natural law, where one always suspects that transcendence is somehow implied.

Allott studies several traditional legal cultures and concludes that among the Tswana, Kikuyu, and even Bushman tribes, law is still directly a communal affair, which establishes a direct link between law as emerging in the consciousness of 'us' on the one hand and its formalised representations on the other. Among the Embu, for example, laws are adopted during a religious ceremony where the entire tribe celebrates the act by slow clapping. The community is just as involved in the resolution of any conflict-bearing disputes, which are played out before the entire tribe. The general binding force of the rule is closely tied to individual community acts.

Modern theories of law or theories of norms have often considered law merely as a formal institution. This is the reason why we have seen a number of pointless questions raised such as what gives law its legitimacy, despite the fact that law is by far more than just a simple logical construction. Law is the very life of the community, it is an evolutionary advantage. Similarly, society is not a multitude of systems and subsystems but a community that may be modelled by a multitude of social systems and subsystems. It is also true, however, that life oftentimes does not take the course dictated by such models.

It is the demand for things to be regulated (law) that appears in the consciousness of 'us' (that things should be regulated necessarily follows from the relationship). It is this demand that is later verbalised and/or instrumentalised in the form of various normative systems (law, morals, religion) and their related institutional systems. However, such verbalised/instrumentalised levels are only the surface forms of law; the origin of law is rooted in the communal existence of the human being and in the related patterns (networks) of relationships.

Norms do not only present themselves at the level of law; we must also take into consideration international systems of norms, religious norms, or even moral norms above or beyond the individual legal systems. All of these function with the consciousness of 'us' at their foundations. If a new normative system constructs itself on a foundation other than this

certainty, it must inevitably face the fact that it cannot possibly be efficient.

Researchers of the anthropology of law clearly understand that forcing the law of any developed country onto “primitive peoples” is practically impossible. Advanced law can at most be a model that the receiving (implementing) communities may be able to adjust to their own customs. In this case, the “advanced” law may be of help; otherwise, it will certainly face resistance. Here’s an illuminating quote: “In cases when the villagers do not wish to comply with the instructions of the development offices, it is not usually the case that the unwritten laws of the community block progress or that the villagers necessarily object to progress; they object to the type of progress that a handful of arrogant nincompoops are out to promote.” The same holds true for religion. One might mention as an example the Christian missions of China, where the “aggressive” approach of the Franciscan mission to converting locals to Christianity resulted in the extermination of the Franciscans, while the Jesuit method of enculturation followed an entirely different path; Matteo Ricci, among others, presented Christianity as the fulfilment of Confucianism. This also holds true for the possibility of implementing moral norms; they will only be accepted if they have been appropriately prepared socially.

CONCLUSION

It is vitally important that we learn about the reality behind the noise of our virtual, simulated, egotistical worlds. Chances are the silence behind that “noise” would reveal a web of simple relationships within the simple masses, the reality of the ‘us’. These relations are usually peaceful, helpful, and tend to avoid conflicts. However, the noise that surrounds them distorts these – by default – peaceful relations. Facts get mixed up with simulated worlds. This is becoming ever more obvious at all levels of norm creation. As a consequence, cliques turn against one another, and links focusing on the essence sever. We either convert ethics into a set of abstract otherworldly rules whose enforcement justifies just about any action, including taking other people’s lives, or merely consider it as a “life style”, denying its universal validity.

Each of these routes leads to destruction. Reality is somewhere between the two extremes; one may recall the importance that Aristotle already attributed to the idea of the golden mean.

It is unlikely that generating this “noise” should specifically serve anyone’s interests because its effects are always destructive. The last European generations to have seen war clearly experienced that there are no winners in such a conflict. However, the noise of the simulacrum inevitably leads to conflicts. If we are unable to once again find our way back to the stable systems of relationships behind this and describe them, major problems may arise. Baudrillard’s 1981 statement that “the organised nature of the simulation would prevent a global disaster from emerging” is only true if the simulation is the result of deliberate actions and is controlled to achieve a set of predetermined objectives. The clear picture we might arrive at by eliminating the noise might help convince people how important it is to stick together. Otherwise, we might create the situation outlined by Russell; in his somewhat ironic opinion, the most efficient means to create human harmony is through war. In times of war, people at least stick together and want the same thing. However, it would be quite dangerous if anyone should try to take this route in an effort to resolve social tensions or to create national (or, as the case maybe, financial) unity.

*Dr. Nándor Birher
College Professor
Gál Ferenc College*

**THE DEFECTS AND FAILURE
OF THE ETHICS INTRODUCED
BY ADOLF HITLER**

The application of the concept of „Führer”, which manifested his egoistic way of life.

The Führer is a German word which means „The leader”. This word was internationally well known when Adolf Hitler applied it during his reign as the Chancellor of Germany. The use of this word then carried both the phenomenal and the emotional expressions in its meaning. The former explains merely what a leader means: a person elected by the masses not only to lead and represent the others but also to serve, as well as been responsible for the welfare of his people. The emotional expression rather tries to draw the distinguishing margin line to show the distance between the Führer and the community. This only served to promote his egoistic ideology and ethics.

Egoism is the noun used when someone is thinking too much about himself/herself. Ethical egoism is often used as the philosophical basis for support of right-libertarianism and individualist anarchism. For Hitler, it was necessary to draw the line between the ruler and the people he ruled. He saw himself above them all. He did not consider leading by serving, but to be served. As a dictator, he always believed that his word should be the last word and no one can interrupt his will.

The day before Hindenburg’s death in August 1934, the cabinet influenced by his initiatives enacted a law abolishing the office of president and combining its powers with those of the chancellor. Hitler thus became head of state as well as head of government, and was formally named as leader and chancellor. As head of state, Hitler became supreme commander of the armed forces.

HIS FALSE DOCTRINE ON MORAL BELIEF AND RELIGION

Hitler extended his rationalizations into religious doctrine, claiming that those who agreed with and taught his „truths,” were „true” or „master” religions, because they would „create mastery” by avoiding comforting lies. Those that preach love and tolerance, „in contravention to the facts,” were said to be „slaves” or „false” religions. The man who recognizes these „truths,” Hitler continued, was said to be a „natural leader,” and those who deny it were said to be „natural slaves.” Slaves, especially intelligent ones, he claimed, were always attempting to hinder masters by promoting false religious and political doctrines. He expected worship and adoration from the people under him.

He claimed that his „truths” form the base of every truth and the code of conduct should form the truth for the masses. By making his truth the base of others he formulated and fabricated such morals which only focused on the support of his way of life. Jesus warned his apostles not to make or call themselves master, because they have only one Master, Christ.

Hitler egoistic way of live and thought made him to develop a very high hatred on the foreigners and migrants. He believed that the benefits of his homeland, Germany can only be inherited by the German citizens. „Races without homelands,” Hitler claimed, were „parasitic races.” He said that if th members of the parasitic race continue to grow and become rich they will be more „virulent. A „master race” could therefore, according to the Nazi doctrine, easily strengthen itself by eliminating „parasitic races” from its homeland. This gave rise to the suppression, oppression and elimination of Jews and Gypsies practiced by the Nazi.

THE BORN-TO-RULE MENTALITY ADOPTED BY HIS PARTY

The born-to-rule mentality is always dangerous: the notion that you are born to rule and others are born to serve. This is always the cause of ethnic and tribal wars as well as the conflicts among nations. When someone or some set of people think that they are only group with the possibilities and potentials to govern others, when they think that they can never be rule and governed by another person or group, when they see themselves as better

than others, when they under look other people and see them as disadvantaged ones, when other people's freedom is deformed or restricted in any way, when such thoughts are accommodated by which someone or people are more favored towards earning certain goals of life, when the children of a certain race are offered more possibilities and are provided with more potentials to portray their capabilities, when people are marginalized, it can be dangerous.

Nazism is defined as a form of socialism featuring racism and expansionism and obedience to a strong leader. It comprises of The Socialist German Workers' Party of Germany, which in 1933, under Adolf Hitler, seized political control of the country, suppressing all opposition and establishing a dictatorship over all cultural, economic, and political activities of the people, and promulgated belief in the supremacy of Hitler as Führer, aggressive anti-Semitism, the natural supremacy of the German people, and the establishment of Germany by superior force as a dominant world power. The party was officially abolished in 1945 at the conclusion of World War II.

The leadership corps of the NSDAP consisted of about 600,000 people, high and medium ranking party officials, „the political leaders”. The Nurnberg Tribunal declared this corps to be a criminal organization, since it had made a significant to the spreading of propaganda, the persecution of the Jews and the implementation of the slave labor programmed.

Hitler's Nazi theory also claimed that the Aryan race is a master race, superior to all other races, moreover, that the creation of a nation is the highest creation of a race, and great nations (literally large nations) were the creation of great races. These nations developed cultures that naturally grew from races with „natural good health, and aggressive, intelligent, courageous traits.” The weakest nations, Hitler said, were those of impure or mongrel races, because they have divided, quarrelling, and therefore weak cultures. Worst of all were seen to be the parasitic „Subhumans” (Untermensch), mainly Jews, but also Gypsies, homosexuals, disabled and so called anti-socials, all of whom were considered „Lifeunworthy Life” (lebensunwertes Leben) due to their perceived deficiency and inferiority.

RACIAL DISCRIMINATION AND APARTHEID

None of these should be applied by any government as a system or ethics without defiling or interrupting the freedom of people, and each of them always results to brutalities and inhumanities.

Racism is the belief that some races are better than others and people of other races are not as good as people of your own race. This was the belief and system employed by Adolf Hitler. Therefore he was a racist.

Right from the beginning, Hitler's World view determined National Socialists foreign policy: He always went against the existence of other tribes and races. He carried out anti-Semitism, anti-Bolshevism and the intention to conquer „living space in the east”, and thus the predominance of the Nazi state based on the „racial” arguments. This means raising strong army for the alliances with fascist regimes and first territorial expansion, heading towards war. These were dangerous steps.

According to *Mein Kampf* (My Struggle), Hitler developed his political theories after carefully observing the policies of the Austro-Hungarian Empire. He was born as a citizen of the Empire, and believed that ethnic and linguistic diversity had weakened it. Further, he saw democracy as a destabilizing force, because it placed power in the hands of ethnic minorities, who he claimed had incentives to further „weaken and destabilize” the Empire.

For Hitler only the German race is a perfect race and every other race is more or less with defects, and if they are not living in their own land they are parasites. The Germans are the superior race that should be above and rule over all other races and nations. This mentality is also dangerous.

People of the Eastern European Russian-dominated Slavic descent were also seen as subhuman, but only marginally parasitic, because they had their own land and nations, though many of them lived in German countries such as Austria, which Hitler saw as an ethnic invasion of Germanic Lebensraum by foreign populations who would have incentive to force Austria's loyalty to their lands of ethnic and cultural origin.

Right from the beginning Jesus made Church to be „Catholic”: universal. With this the Church condemns all the acts and practices that promote racial discrimination among people. The

Vatican II council stressed that we can only be called Children of the Most High if we see other people as brothers and sisters in one God. The council therefore condemned all sorts of behaviors that may bring discrimination among people due to language, color, nation, culture and so on. We know from Bible that God created man but it does not tell us that man is black, white, Indians color and so on. Therefore what matters is only the dignity of human being. The Church therefore implored on the faithful, - knowing very well that it is unacceptable in the field of Christ's evangelical work - to avoid anything that may lead to discrimination.

According to Nazism, it is an obvious mistake to permit or encourage multilingualism and multiculturalism within a nation. Fundamental to the Nazi goal was the unification of all German-speaking peoples, „unjustly” divided into different Nation States. Hitler claimed that nations that could not defend their territory did not deserve it. Slave races, he thought of as less-worthy to exist than „master races.” In particular, if a master race should require room to live (Lebensraum), he thought such a race should have the right to displace the inferior indigenous races. Hitler draws parallels between Lebensraum and the American ethnic cleansing and relocation policies towards the Native Americans, which he saw as key to the success of the US.

Under Hitler's leadership and racially motivated ideology, the Nazi regime was responsible for the genocide of at least 5.5 million Jews and millions of other victims whom he and his followers deemed racially inferior. Hitler and the Nazi regime were also responsible for the killing of an estimated 19.3 million civilians and prisoners of war. In addition, 29 million soldiers and civilians died as a result of military action in the European Theatre of World War II. The number of civilians killed during the Second World War was unprecedented in the history of warfare.

Hitler also adopted the such an unacceptable ethics like apartheid: trying to force the Jews to live separately from others. This was the system which was also adopted in South Africa in which citizens are separated under their races to live apart. Pope John Paul II condemned apartheid in his articles affirming that it is a system that can never be acceptable.

The Pope was an outspoken opponent of apartheid in South Africa. In 1985, while visiting the Netherlands, he gave an impassioned speech condemning apartheid at the International Court of Justice, proclaiming that „No system of apartheid or separate development will ever be acceptable as a model for the relations between peoples or races.

On his address to the members of the special committee of the United Nations Organization against apartheid, he said: Unfortunately, as I had to note on the occasion of the celebration of the International Day for the Elimination of Racial Discrimination: „...the scourge of racial discrimination, in all its many forms, still disfigures our age. It denies the fundamental equality of all men and women, proclaimed by the different Declarations of the United Nations, but above all rooted in God”. Hence every form of discrimination based on race, whether occasional or systematically practiced, and whether it is aimed at individuals or whole racial groups, is absolutely unacceptable. The Apostle Saint Paul says very clearly: „Here there cannot be Greek and Jew, circumcised and uncircumcised, barbarian, Scythian, slave, freeman, but Christ is all, and in all” (Col. 3, 11).

Below are the key elements of the Nazi ideology (National Socialist Program):

1. The anti-Semitism.
2. The creation of „Fountain of Life; A department in the Third Reich” Master Race = by the Lebensborn (Herrenrasse).
3. Anti-Slavism.
4. Belief in the superiority of the White, Germanic, Aryan or Nordic races.
5. Euthanasia and Eugenics with respect to „Racial Hygiene”.
6. Anti-Marxism, Anti-Communism, Anti-Bolshevism.
7. The rejection of democracy, with as a consequence was the ending of the existence of political parties, labor unions, and free press.

8. Leader Principle/belief in the leader (Responsibility up the ranks, and authority down the ranks (Führerprinzip).
9. Strong show of local culture.
10. Social Darwinism.
11. Defense of Blood and Soil (German: „Blut und Boden” – represented by the red and black colors in the Nazi flag).
12. The creation of more living space for Germans, Related to Fascism („Lebensraumpolitik”, „Lebensraum im Osten”).

THE CREATION OF COMMUNITY INSTEAD OF SOCIETY

The societal comprehension of Hitler and the Nazi Party was very strange. They replaced the pluralistic and parliamentary order by a community established on a purely emotional level through elevating experiences and feelings . These created in the mind the sense of inward unity of identification between the „Führer” and his people. The National Socialists thus preferred mass festivals in which the individual was reduced to an insignificant part of the whole and the whole was geared to the Führer.

However, it is important to note that with the start of the World War II on 1st of September 1939, construction work for the „Temple City of the Nazi Movement” was largely stopped, this marked the end of the party and group.

*Dr. Esiobu Anayo Augustus
College Associate Professor
Gál Ferenc College*

CSABA LATORCAI

ON THE LINGUISTIC AND ETHICAL ASPECTS OF LEGAL NORM FORMATION

*Dear Conference Participants,
Ladies and Gentleman,*

I.

I am honoured to participate in this conference. Not only because the process of legislation is part of my daily work, but also because legal regulations are present in our everyday lives, their impacts and requirements affect our social interactions and life situations, and dealing with them runs through the fabric of our daily lives.

Law and legislation share a history with civilisation, and their development is linked to the development of society. Textbooks will tell you that law is the systematic collection of norms and codes of conduct stipulating the interpersonal behaviour of people, and that compliance with them may be enforced by the state. We should however remember that law is also the minimum of *ethics*, and therefore compliance with legal regulations is one of the fundamental requirements of societal existence.

Law, as we see it, is inseparable from the existence of human communities; it is an objective need that individuals must adjust their behaviour to each other, and thereby form a transparent and predictable system of cooperation. The behaviour of individuals coordinated by norms is what lends stability to relations within a community. When creating norms, one should strive to make them enforceable, and it is therefore essential that norms be comprehensible and if possible unambiguous for all members of society, that is they should mean the same to all of us. Norms, as one of the important criteria of sociability have been present since

the birth of human society. Their content, form and mechanism of enforcement mirror the developmental stage of the society. These norms emerge out of the interactive process of societal actions and life situations. Once established they influence human behaviour, but may only meet their goals if those to whom they apply understand their rules and accept them as binding upon themselves.

Attention needs to be given to the persistence, stability and long-term applicability of laws already during the process of legislation, while observing the most important rules and principles for the coherence of both the *substance* of the legal system and the *form* of legal regulations. Related to this, the qualitative aspects of universal comprehensibility also need to be observed during legislation, as well as those aspects that aim to guarantee that requirements for any one behaviour are not stipulated in several different ways at any one time, so that no behaviour may qualify as both legal and illegal at the same time. Law and legislation have both evolved to be able to classify behaviours as either permissible, legally required, or legally prohibited, and thereby maintain, or even improve the unity of society. For this – as evidenced in everyday practice – requirements for substance need to be met, and all rules for form, language and the hierarchy of legal norms need to be observed. As practice has shown in several cases, in addition to the modification of existing regulations and their adjustment to new conditions of life, the creation of new norms is also often necessary. During the formulation of new regulations, the principle of the compatibility of draft legal regulations with the existing legal system needs to be observed. This principle dictates that any new norm should be aligned with existing ones so that their compatibility can be guaranteed, which in turn is a guarantee for the efficiency of the law and provides for legal certainty.

As legal textbooks also state, the most important principle of formulating legal regulations is that they should be precise and universally comprehensible. Both of these requirements are related to the language of legal regulations. As they are aimed at all layers of society and are intended to regulate a wide range of life situations, their requirements may only be observed by those

to whom they apply if their content is understood, for which the conditions of correct language use need to be met. However, defining these conditions is made difficult by the fact that norms in one area of social behaviour need to be defined here by using a system of social behaviour, namely language, whose norms are not laid down in legal texts, but rather in grammar books. In other words, a „hard” set of rules needs to be described using activities defined by a „soft” set of rules. „For this reason (...) beyond the normativity of utterances on law, also the question of the *linguistic normativity of law* arises. This concerns the extent to which law as a system of norms or rules may be limited or its integration into a system determined by the fact that law is of a linguistic nature.”³

One approach to correct legal language use sees it as the observation of the most general and socio-culturally least variable norms of language, as these together represent the greatest common denominator of any given language community. We hardly ever think of it, and many even deny it, but the fact still remains that linguistic norms are the rules for the use of language not only as a means of communication, but also as elements of a system determining an essential area of the system of social interaction that furthermore regulates the cohesion of the entire language community. Their role also has the same roots as legal norms: they are intended to ensure the predictability of interpersonal behaviour, in this case people’s behaviour in the linguistic dimension of social interaction. Ultimately linguistic norms may therefore be interpreted as *ethical norms* if regarded as elements of the system of social interaction. They are rules that are not abstract, arising, existing and prevailing independent of us, but rather the linguistic expressions of community-building, community-maintenance and *ritualised*⁴ behavioural forms, or in other words products created by the community as a whole.

3 Szabó Miklós: Normatív nyelv – jogi nyelv; *Glossa Iuridica* 2014/2. 19.

4 On ritualisation as a cultural phenomenon see the foreword of Konrad Lorenz: Vorwort für die Einführung der Kulturethologie; Otto Koenig: Kultur und Verhaltensforschung (Deutscher Taschenbuch Verlag, München, 1970. 7–13.)

It is when we bear all this in mind that we understand best why one of the outstanding figures of 20th century Hungarian literature, Gyula Illyés wrote in his volume of essays entitled *Compass* that „(...) the teaching of good Hungarian writing and speech should actually start with the teaching of correct thinking. Who thinks correctly? Those seeking the truth. The manner of writing and speech will show anyone’s true colours. To write and to speak well in Hungarian is therefore truly a matter of character.” We can conclude from this thought that by guarding, caring for and developing the traditions of their mother-tongue individuals have a responsibility through their choice of language use to the whole language community – not only of that day and age, but also to all generations that created and passed this language on to them and those who will use it in the future,. „One cannot sufficiently stress that preserving what has already been achieved is almost more important for any kind of development, be it of evolutionary or cultural nature, than to achieve anything new.”⁵

II.

One source of legal and linguistic norms is therefore ethics. Today, however, there is a huge difference between the way new legal and new linguistic norms are created. In the history of organising societal existence, the institutionalisation of the creation of norms for a portion of social interactions, that is legal norms, emerged at a relatively early stage. Altering linguistic norms, creating new ones or filtering out linguistic changes either through acceptance or rejection has been, however, for a long time a shared activity of the entire language community. There has never been a single institution of social existence, unless we count the neology movement during the Enlightenment, which either in a normative way or through its impact has been able to change the

5 Konrad Lorenz, cited literature 9. „Es kann gar nicht genügend betont werden, daß das Festhalten des einmal Erreichten für jede Entwicklung, sei es nun eine stammesgeschichtliche oder eine kulturelle, fast noch wichtiger ist als das Hinzuerwerben von Neuem!

language use of society as a whole significantly. For many years the language of education and public administration in Hungary used to be Latin, and the effects of this are still easily identified in Hungarian language use today. Despite this, the wave of Latin influence reached almost the entirety of the Hungarian language with a delay, indirectly and somewhat dampened, and since the filter of the language community worked well, Latin has only survived in our language in the form of rigid linguistic inclusions in individual set phrases, mostly preserved through the influence of German. To take just three examples: in the Hungarian set phrases *minden idők legnagyobb alakja* (“the greatest figure of all times”), *xy összes művei* (“the complete works of xy”), and *többek között* (“among other things”), the indicated plurals reflect the influence of Latin and German, as the same phrases would normally use singular forms in standard Hungarian: *minden idő legnagyobb alakja*, *xy összes műve*, and *több között*, respectively. The filtering of the language community removed most Latin words and Latinisms from everyday language use.

The education in Hungarian as the mother-tongue at schools started at the turn of the 18th century, and together with language standardisation that started a hundred years later, kept the filtering function of the language community alive more or less successfully until radio and television became widely used, and media became a powerful factor. In the process of the media and education merging into an industry of consciousness, however, all this changed radically. In the age of mass societies, almost all language communities have – quasi unknowingly – conceded their direct right to the control over changing their own linguistic norms and creating new ones to broadcasting (or mass communication and the media), and even though they had the opportunity to establish an institutional system controlling, supervising and if necessary sanctioning language use in the media, they have not done so. Law could here „seek satisfaction” from language in a manner of speaking for inevitably imposing normative boundaries on law, namely by imposing normative boundaries on language – but solely for the protection of national culture. A good example for this is the extraordinary language policy of Iceland, whose effectiveness is best evidenced

by the fact that any Icelander today will have no difficulty in understanding Old German texts from 1100 AD⁶, their language contains hardly any loanwords from English or other languages, yet it can be perfectly used in any walk of life, and all Icelanders speak at least two foreign languages, English as well as Danish, Norwegian or Swedish. Our society today, however, has so far not asserted its right to control this area of its own culture, which plays an invaluable role in the coherence of our society and the preservation of our culture. We have yet to see the significance of this historical turning point, which currently also dictates the direction of changes in our language, and its long-term effects are not entirely foreseeable, although we can anticipate them to a certain extent. A series of surveys have shown that functional illiteracy and functional language incompetence are on the rise in Hungary⁷. Even though these troubling phenomena are currently interpreted by science as primarily sociological and pedagogical problems, it is difficult to imagine that their causes do not include the manner and speed of changes in the language environment, and the decline of the grammatical system in and through everyday language use, primarily in the consciousness industry. This may give many native speakers of Hungarian the feeling that they are increasingly less familiar with their own mother-tongue. There is a rightfully often quoted line in the novel *Ábel in America* by Hungarian novelist Áron Tamási that says „We have come into this world to be at home in it somewhere”. Beyond the ethically determined imperative of staying in one’s own homeland, this thought – in my opinion – also refers to the importance of preserving one’s mother-tongue, one’s linguistic home, and the fact that natural and scientific efforts to preserve, change and renew linguistic norms are always only validated

6 A. P. Kristinsson: Språkpolitikk og språkrøkt – Islandingenes erfaring. In: Nordisk Kulturpolitisk Tidsskrift 2001–2. 138. As cited by Rácz Katalin: Sziget-e Izland? Az izlandi nyelvpolitika fő fejezetei. Gellérfi Gergő és Hajdú Attila (szerk.) Eötvözet II., Szeged, 2013. 60–66.

7 On the distinction between functional illiteracy and functional incompetence see Benczik Vilmos: Nyelv, írás irodalom, Trezor kiadó, Bp., 2001, 210–211., vagy <http://mek.niif.hu/05100/05153/05153.pdf>

and preserved by the active participation of the given language community.

The other great determining factor for norm-following legal language use takes us from the greatest common denominator of the language community to its lowest common factor, the body of legal terminology. Legal language is special, unlike the terminology of many other professions, in that it has an impact beyond its inherent significance. The knowledge and understanding of legal language, as I mentioned before, broadly affect society and have a significant impact on societal relations. Yet the use of legal language is necessary for the precise formulation of norms, even if legal experts are often criticised for this, because translating legal terminology into general language is a difficult, and often almost impossible undertaking. The Hungarian legal terms for defendant, tax subject, party, client, effect, legal entity and many others cannot be substituted with general expressions, only at best given a complicated description. Even though these expressions are still considered legal terms today, due to the frequency of their use they are now deeply rooted in general language, and through this, we could say that law is exerting an implicit normative pressure on general language.⁸ Another reason for this special manner of expression is that precise formulation in law is sometimes literally a matter of life and death. Legal terms may not be replaced with any other, so for example the concept of natural persons may not be construed as a synonym of citizens. Precision is therefore an important factor in legal certainty. For this reason, it is important that legal terminology is used in law with a universal meaning, or else we will face legal uncertainty. At the same time, we should strive for universal comprehensibility in the use of terminology. Our effective laws also consider it essential that the most important rules for life situations, transactions, and everyday life should be formulated in a manner clearly understandable to all, which ensures the greatest possible level of enforcement of norms in society. In the light of all this, it is important to promote the

8 Szabó Miklós, id. 25.

greatest possible involvement of broad layers of society in the preparation of legal regulations to provide for a framework of good governance, which would help provide legal regulations with a more diverse foundation in the interest of the public good, which in turn would help improve the quality and enforceability of legal regulations. Together these are essential prerequisites for the existence of a good state. As I mentioned earlier, one of the most important areas for implementing this is public education, where norm-following legal language use can be most widely introduced to the public.

Finally, please allow me to cite from the work *Parainesis* by the Hungarian poet Ferenc Kölcsey, in which he bequeathed to us the love of our mother-tongue, pointing out one of the most important ethical aspects of language, its social and national dimension: *„Think of your country’s language with the fondest affection, because country, nation and language are three inseparable things; those without ardour for the latter, will not be willing to sacrifice for the former two.”*

Thank you very much for your attention. I wish you all successful work for the rest of the conference.

*Dr. Csaba Latorcai
College Associate Professor
Gál Ferenc College
Deputy State Secretary for Priority Social Affairs*

LÁSZLÓ GRUBER

BIBLICAL FOUNDATIONS OF MORAL NORMS IN CATHOLIC MORAL THEOLOGY

or

*“The beginning of the Christian life is not characterized by an ethical norm, but by the personal meeting with Jesus Christ”
(Pope Benedict XVI)*

Undoubtedly Moses himself is the most emblematic figure of the Old Testament through whom the Jewish people received **four donations** of outstanding significance: **manna** and **water** in the wilderness, the revelation of **God’s name** (YHWH), and the **Torah** itself. In accordance with the words of Pope Benedict XVI “Israel realized more and more clearly that this was Moses’ **fundamental and lasting gift**; Israel’s distinction was to know God’s will and thus the correct way of life. (...) It became gradually clearer and clearer in the internal development of the Jewish thought that the bread of heaven, **which has nourished Israel is the Law itself – God’s Word.**”⁹

The Mosaic Law is essentially tied to the alliance on Mount Sinai. When **God enters into an alliance with Israel and makes promises**, at the same time He **imposes conditions** which must be faithfully adhered to; and these **conditions** that are contract accessories, together constitute the **Law**. Consequently the Mosaic ethics are based on God’s loving initiative and are of dialogic nature; federal ethics manifested by the faith of the human

⁹ Pope Benedict XVI, *A názáreti Jézus*, Szent István Társulat, Budapest 2007, 225. Original title: Benedict XVI *Jesus von Nazareth*, Herder, Freiburg im Breisgau 2007.

party and waiting for his response; before it lays down a moral imperative, it stands before us as the **morality of gifting**.¹⁰

Moses, however, as the most prominent figure in the Old Testament story of salvation, in Pope Benedict XVI's words,¹¹ will be replaced by the **new Moses, Jesus Christ** through whom also **four** donations of eminent importance are granted to the new chosen people: the **Eucharist**, the **water of eternal life**, the revelation of the **Father's name** and the moral teaching in the **Sermon on the Mount**, the **New Law** which is nothing else than the *Magna Charta* of His ethical requirements.¹²

Despite the correspondences between Moses and Jesus, however, there is a **fundamental difference** and **definitive novelty**. It is much more about the fact that the **Law became a person by Jesus Christ**.¹³ "He really speaks based on his vision of the Father, starting from the incessant dialogue with the Father; from the dialogue which is his life. If Moses was only able to show us and did show us God's back, Jesus is the Word of God coming from the Father, from His living approach and the unity with Him," says Pope Benedict XVI.¹⁴ Consequently Jesus, who did not come to terminate but to fulfil the Mosaic Law, will be the new and eternal law by his moral teachings and in particular his whole **existence**. The New Testament ethics of Jesus is federal ethics of a dialogic and gifting nature, similarly to the Old Testament; but instead of the category of "law" the key concept of its understanding and synthesis will be "**Christ-following**" (*sequela Christi*).¹⁵ I will explore this in more detail on the basis of the encyclical *Veritatis splendor* of the Holy Pope John Paul II (cf. *VS* 15-25).

1. Pope John Paul II says Jesus makes God's commandments perfect; he shows that commandments should not be understood

10 Cf. Vidal, M., *Manuale di Etica teologica* 1 Cittadella Editrice, Assisi in 1997, 110.

11 Cf. Pope Benedict XVI, *A názáreti Jézus*, 223-228.

12 Cf. *VS* 15 (*CCL* 35 : 1, *St. Augustine* : De Sermone Domini in Monte I, 1,1)

13 Cf. Pope Benedict XVI, *A názáreti Jézus*, 226.

14 Pope Benedict XVI, *A názáreti Jézus*, 224.

15 Cf. Vidal, M., *Manuale di etica teologica* 1., 107.

as a moral minimum, which must not be disobeyed, but rather as a free way for moral development and spiritual perfectness. Jesus himself is **the living fulfilment of Law** because he achieves the true meaning thereof by his complete self-oblation. He is alive and **becomes a personal Law** who is calling you to follow, and the Holy Spirit gives the grace to share your life and offers the strength to testify in favour of him in our actions (see *John* 13, 34-35).

2. The dialogue with the rich young man is well-known. Although the young man followed the commandments of the Old Testament as a moral ideal from his childhood seriously and generously, he, however, knows that he is far from the target: “What else should I do?” (*Mt* 19, 20). Jesus, seeing that the young man longs for perfection exceeding the legalistic interpretation of the commandments, invites him to step onto the **way of perfection**: “Give what you have, and give to the poor ... then come, follow me!” (*Mt.* 19, 21).

Jesus’ response to this, as in other moral messages as well, shall be read and construed in the **context of the Beatitudes of the Sermon on the Mount**. Because the first Beatitude is just for the poor people, “the poor in spirit” (*Mt.* 5, 3). Each Beatitude, although from different points of view, promises the ‘good’, which opens man for eternal life.

Beatitudes are not rules of action in fact, but they speak of habits, the basic feelings of human life and of virtues and therefore they do not correspond exactly with the commandments. On the other hand, **Beatitudes and commandments are not strange to each other and are inseparable**: both of them relate to good and to eternal life. The Sermon on the Mount begins with the announcement of the Beatitudes, but there are references to the commandments, too (cf. *Mt.* 5, 20-48). However, this Sermon presents the direction and openness of the **commandments** to the **perfection** which is included in the Beatitudes. What’s more, the Beatitudes are **promises** from which **regulations** to moral life also ensue, although indirectly. In their original depth **Christ’s self-portrait** emerges in them, which is a request for his following and for life in his community.

3. The **full adherence to the laws** is the condition of the moral growth of people **invited to perfection**, nevertheless, man, as the young man in the story, proves to be unsuitable for taking the next step of his own strength. Because to do this, in addition to the mature human freedom **God's gift of grace** is also required.

Jesus' words reveal that **human freedom** and **divine law** are not facing each other; on the contrary, **they mutually presuppose each other**. A disciple of Christ knows that his profession is about freedom, but this has nothing to do with the liberation of man from the false commandments (cf. *Gal 5, 13*). On the contrary, the commandments are to practice love, and are summed up in this single commandment: "You shall love your neighbour as yourself" (cf. *Rom 13, 89*).

4. If you live in love and "by the Spirit" (*Gal 5, 16*) and wish to provide services to others, you feel the **inner urge** – but not force – not to **stop at the minimum requirements of Law**, but fulfil them in their "entirety". This way, as long as we live here on earth, is uncertain and weak, but **it is possible by grace** that rewards us with full freedom of the children of God (cf. *Rom 8, 21*), and allows to **respond to the lofty call in moral life** by which "we are sons in the Son."

The **invitation to perfect love** is not only the privilege of a tight circle. The call to the rich young man ("give everything you have, and give it to the poor") along with the promise "you will find treasure in heaven" is for **everyone**. Because this is not more than the radical version of the commandment of brotherly love, as the subsequent call „come and follow me" is the new and final form of the commandment of the love of God. The commandments and Jesus' call to the young are in the service of the one and indivisible love which strives for perfection involuntarily, the **extent of which is God alone**: "Be perfect, as your heavenly Father is perfect" (*Mt 5, 48*).

5. The way and content of perfection is to follow Christ. Therefore, **Christ's following is the original and essential foundation of Christian morality**. The follow of Christ is not an external imitation because this affects man to the depth of his heart. The point here is not only that you have to listen to a teaching or to obey a commandment, but you have to insist

on Christ's person and must share his life and destiny. He is the Shepherd (cf. *John* 11, 16) who leads to the father, and Jesus' vision is equal with the father's vision (cf. *John* 14, 6-10). Therefore, **to imitate the Son**, the image of the "invisible God" (Col. 1.15) means the **imitation of the Father**.

6. Jesus requires us to follow and imitate him along the way of love: "This is my commandment, that you love one another as I have loved you" (*John* 15: 12). This instruction on "**how**" shows the **degree** to which Jesus loved, and with which his disciples should love each other. "Greater love hath no man than this, that a man lay down his life for his friends" (*John* 15, 13).

7. As a result of **baptism** Christians are implanted into the Church, Christ's body (cf. *1 Cor.* 12, 13. 27). **By faith** Christ lives in the heart of believers (cf. *Ef.* 3, 17), and thus the disciple **will be similar to his Lord** (cf. *Gal* 3, 27). This is the fruit of grace, the Holy Spirit in us. As Christians live in Christ for God, they are destined to follow the Spirit and bear **fruits in their life** (cf. *Gal* 5, 16-25). Having a share in the **Eucharist**, in the sacrament of the new and everlasting alliance (cf. *1 Cor.* 11: 23-29) is the peak of assimilation to Christ, and at the same time the source of eternal life (cf. *John* 6, 51-58), and the beginning and strength of **full self-devotion**. (*1 Cor.* 15, 26)

8. Man is unable to imitate and reciprocate the love of Christ simply from his own resources. Man will only be able to do this **by the strength of a gift** received. As the Lord Jesus receives love from his Father, he communicates it to his disciples in the same way, free of charge: **Christ's gift is his Spirit**, whose first "**fruit**" (cf. *Gal* 5, 22) is **love**: "the love of God is shed abroad in our hearts by the Holy Ghost which is given unto us." (*Rome* 5, 5)

9. Full compliance with God's commandments is only possible in this new life of grace. **Life according to love and the Gospel cannot primarily take the form of commandments, because what is required exceeds one's strength: it is only possible as the fruit of God's gift**. However, God heals, recreates and remakes the hearts of people with his grace: "For the law was given by Moses, but grace and truth came by Jesus Christ" (*John* 1, 17).

10. This is how the true and original face of the commandment of love becomes visible, and also of perfectness, which it is aimed

at: it is a capability which is given to man through **grace**, it is **God's gift**. On the other hand, just from the recognition that we have received a gift, i.e. that we possess God's love in Jesus Christ, the responsible answer of the full love towards God and fellow beings is born, as the Apostle John urges in his first letter: "Beloved (...), if God so loved us, we also have to love each other." (1 John 4, 7-8. 11. 19)

The **gift of grace** does not infringe, but strengthens the **moral requirement** of love: "And this is his commandment, That we should believe in the name of his Son, Jesus Christ, and love one another as he gave us commandment" (1 John 3, 23). Only those can remain in the love of God who keep his commandments, as Jesus said: „If you keep my commandments, ye shall abide in my love; even as I have kept my Father's commandments, and abide in his love" (John 15.10).

St. Thomas Aquinas summarizes the great tradition of the fathers of East and West, in particular the tradition of St. Augustine, in a wonderful synthesis, when he says that the new Law is the grace of the Holy Spirit which is granted to the believers in Christ. (*Et ideo principaliter lex nova est ipsa gratia spiritus sancti, que datur Christi fidelibus.* Summa Theologiae I-II, 106, 1.) The commandments of which the Gospel speaks prepare for this grace, or bring its consequences into life. The **new Law** in fact **does not only tell you** what should be done, **but also gives strength** for doing the „truth" (cf. John 3, 21). St. John Chrysostom says that the new Law was preached on the day of Pentecost, when the Holy Spirit descended from heaven, and adds that the Apostles "did not come down from a mountain with stone tables in their hands like Moses, but carried around the Holy Spirit in their hearts (...). By grace they became living books and living Law." (PG 57: 15 (In Matthaeum, homilia I,1).)

11. Jesus entrusted the Apostles and their successor to interpret moral commandments, they fulfil their mission with the light and strength of the Holy Spirit (cf. Lk 10, 16), teaching above all, Christ's follow and imitation: „For me, the life is Christ" (Philippians 1: 21).

I conclude by repeating the thought of Pope Benedict XVI in the subtitle: “The beginning of the Christian life is not characterized by an ethical norm, but by the personal meeting with Jesus Christ.”

*Dr. László Gruber
College Associate Professor
Gál Ferenc College*

GÁBOR CZAGÁNY

THE LAW AND THE GOSPEL AS THE BIBLICAL FOUNDATIONS OF NORMATIVE ETHICS

When the concepts of law and of the Gospel are approached from the side of the New Testament and Christian tradition, we can easily fall into the trap of generalization from several aspects. It is a well-known, but misunderstood interpretation that the Old Testament is nothing more than the law, and the New Testament is the same as the Gospel. As you will see later, the law can be part of the New Testament, but at the same time the Old Testament does not lack the Gospel either. The same misunderstanding can happen if the law and the Gospel are approached as a negative or positive ethical norm, despite the fact that there are still numerous advocates of this approach.

In order to find our way in the interrelationship of these two basic concepts, we have to much better understand their Biblical function, which can be read of course both through Old Testament and with New Testament glasses. For lack of time and in keeping with the spirit of the place, we now choose the second option.

On the basis of the New Testament the most up-to-date question that can be asked about the law is whether it is currently valid for Christian people. We can respond to this question if we answer the dilemma what law really is. We can give the most precise answer to the above question if a parallel is established between its characteristic features and the criteria of the Gospel. On this basis we can set up the following difference pairs which, however, are not to be taken to extreme:

LAW	GOSPEL
demand	address
God's will	God's address
guidance	promise
prosecution	discharge
verdict over the guilty	grace
judgement	forgiveness
anxiety	comfort

The above system of relations is revealed by the activities of *Apostle Paul*, who clearly stated that although the law is necessary, yet the ethics of following Christ is based on the Gospel.

The theology of the Old Church actually continued this apostolic teaching when it looked at the Gospel as a *supplement* to the law. Old Church times offer of course plenty of counterexamples, e.g. *Marcion's* system clearly *contrasted* the two. Most of the Greek and Latin Church fathers subordinate the law to the Gospel, although none of them goes as far as referring to the law as the embodiment of sin, like *Marcion*. *St. Thomas Aquinas* speaks of the Gospel as *lex nova* thus continuing the old church tradition, although he also represents that the soul makes one ready to comply with the law. This shows the characteristic feature of the medieval theology, whereby compliance with the law could even be an act of salvation.

The Reformation, especially its Evangelical branch strictly refers again to the foundations laid by *Apostle Paul*, who also argued for the benefits of the law, although he definitively stated that it cannot be the basis of gaining credits. Both *Luther* and *Calvin* spoke about the threefold benefits of the law, which as an *usus politicus* is on the trustee of external discipline and external order, as a *usus pedagogicus* is the source of knowledge of sins, and as a *usus normativus* has a regulating or guiding role. On this basis *Luther* extracts the thought of *St. Augustine*, which became the theory of the Two Empires in the evangelic theology on the basis of his theory of Two Cities, which *separated* the law and the Gospel from each other. The consistent representation thereof undoubtedly resulted in the sad practical fact in the 20th century that the side of action of the law was left to the (hitlerite) State,

whilst the Church remained only responsible for preaching the Gospel, thus revoking its right to criticize the political system.

The dialectic theology represented by *Karl Barth* introduced significant changes in attitude in this field, too, when the order of the law and the Gospel *was reversed* declaring that there is no imperative without being preceded by the indicative. In practice, this means that God always saves man first, and gives commands only after that.

After this short theology historical detour, let us return to the initial issue: What is the law and what is the Gospel?

The law of God serves nothing more than to reveal God's will. As man can measure his own guilt on this basis, and it will be the source of the knowledge of sins, Paul's theorem whereby „*law came into the world for sin*” (Rome 7) is true. However, this does not mean that the law itself is the result of the sin; it only means that the reality of sin can be detected by using the law.

However, the question is justified whether the law did not become unnecessary and invalid in the light of crucifixion and resurrection. In fact, the normative nature of the law cannot be interpreted in the light of the New Testament any more, however, we cannot consider it as a rudimentary state which has become null and void, as it has a separate message.

Nevertheless, the New Testament speaks about the law as an impossible claim, an expectation that cannot be met by man in a satisfactory fashion. That is why we could expect that God will reverse impossible claims into possible ones, thus liberalizing expectations.

However, the situation is that the interpretation of law by Jesus leads to radicalization. Jesus does not only simply affirm that „*there is nothing to be lost from the law*” (Mt 5.18), but at the same time he „rolls” the rules and makes them impossible to comply with. Where adultery was forbidden, there the sinful wish to the other sex has become guilt. If the law prohibits murder, Jesus condemned anger, too, because it leads straight to murder. When in the Old Testament logic in addition to the love of fellow beings, the hate of enemy was justified, Jesus encouraged to love the enemy.

The most important characteristic feature of the *nova lex*

revealed in the Sermon on the Mount is the impossibility of complying with it, which proves man's guilt under all circumstances. However, the „new law” by Jesus does not become the norm, but remains in its role, showing the guilt as a mirror to the man who looks into it. The solution is no longer compliance with the law, but the faith in the Lord exercising control over the law.

So we can understand why Jesus laid down the double commandment of love as the essence of the law. Although the commandments: love the Lord and love your neighbour, answer the message of the two stone tablets relating to God and man, but at the same time, they do not focus on obedience any more, but on love.

By the love of God man recognises that he can only prevail over his guilt through his faith in Jesus Christ, who conquered death, and not by complying with the letter of the law. The commandment „Love the Lord” in itself cannot be obeyed in the long run, similarly to the teachings of the Ten Commandments. However, through repentance, search for God and obedience one can practice self-devotion, which can be complete despite all its frailty.

The commandment of love at the same time gives meaning to life, and makes practice of Jesus' farewell phrase „*True love is when someone gives his life for his friends*” (John 15:13). Anybody with whom a man is in connection and is in need of help can become a fellow being. This fellow being existence can remind people of the misery Christ released them from.

The source of this dual love is God, who is, at the same time, the judge who formulates the judgement and provides acquittal. The above-mentioned two faces of God cannot be contrasted, just as the law and the Gospel cannot either. The love of God is in its justice.

This love coming from God, the *agape* is completely different from man's love. It descends from above and cannot be put together on the basis of earthly features. But it is true that human love comes from divine love.

So we get to the Gospel, which is really able to lift people and save them from the depths of sin, because the acts of God

embodied in Jesus realized this ideal. This way the harmony of the law and the Gospel is created, and so we understand why Gospel is considered a clear norm for Christians.

*Dr. Gábor Czagány
College Associate Professor
Gál Ferenc College*

THE RELATIONSHIP BETWEEN THE LEGAL SYSTEM AND MORAL ORDER

The Hungarian Civil Code¹⁶ of 1959 has a chapter that enumerates certain general rules that lay down the basic principles of contracts. In this chapter, Section 200 stipulates that, among other cases, a contract is also null and void if it runs against requirements associated with socialist coexistence.¹⁷ In 1977, the Civil Code was significantly reworked¹⁸, as part of which the phrase “the interests of the working people” was replaced by the phrase “the interests of society”; however, in line with the ideologies still in full force during the decades of dictatorship, the language referring to requirements associated with socialist coexistence remained in the text albeit neither the Civil Code nor the Constitution¹⁹ nor, in fact, any other rule of law offered any explanation what the often-heard phrase “requirements associated with socialist coexistence” actually meant. Highlighted at the beginning of the Civil Code, this passage laying out the general principles of all legal relationships governed by civil law made reference to requirements associated with socialist coexistence, and that reference was accompanied by language referring to the obligation of mutual cooperation. In fact, the legislator took the effort to explain in what manner this obligation of cooperation is to be complied with: by meeting one’s obligations with meticulous care and by exercising one’s

16 Proclaimed as Act IV of 1959.

17 Cf. the language in Section 200 (1) of Act IV of 1959 in effect between 11 August 1959 and 08 June 1991.

18 Act IV of 1977 on the amendment and unified text of Act IV of 1959 the Civil Code of the People’s Republic. of Hungary.

19 Act XX of 1949 on the Constitution of the People’s Republic of Hungary.

rights according to their intended purposes.²⁰ At the time of the comprehensive recast of 1977, the legislator supplemented this behavioural rule with the general principle that unless the Civil Code includes a stricter stipulation, citizens must act in their civil law relationships in the manner that can generally be expected of them in the given situation.²¹

After the change of the regime, the Civil Code was amended in 1991. At this time, the basic principle of cooperation, in accordance with the requirements associated with socialist coexistence, was replaced by the basic principle of “bona fides and honesty”.²² Among the stipulations governing the cases when contracts were deemed null and void, the reference to the requirements associated with socialist coexistence were replaced by language referring to the requirement of having good morals.²³ According to the legislator’s justification of the 1991 amendment, this change introduced good morals into the Civil Code, adding that while general civil law thinking as well as private law practice had been well familiar with the concept of good morals, the actual content of the phrase would have to be elaborated in actual jurisprudence.²⁴

Entering into force on 15 March 2014, the new Civil Code²⁵ retained the basic principle of bona fides and honesty, which had been part of the earlier Civil Code since 1991,²⁶ but it also retained the basic principle that a contract breaching good morals is null and void.²⁷

However, the legislator still did not describe what behaviours would actually be in compliance with the above-mentioned basic

20 Cf. Section 4 (3) of Act IV of 1959 as in effect between 11 August 1959 and 09 June 1991.

21 Cf. Section 4 (4) of Act IV of 1959 as in effect from 01 March 1978.

22 Cf. Section 2 of Act XIV of 1991.

23 Section 200 (2) of Act IV of 1959 as amended by Act XIV of 1991 stipulates that „A contract is also null and void if it obviously breaches good morals.”

24 Cf. the justification attached to Section 14 of Act XIV of 1991.

25 As proclaimed by Act V of 2013.

26 Cf. Section 1:3 (1) of Act V of 2013.

27 Cf. Section 6:96 of Act V of 2013.

principles. Consequently, these important basic principles, which serve, among other things, as the basis for the application of certain legal consequences under civil law, are in fact open legal norms whose content, the legislator believes, should be shaped by moral norms.

It is worth taking a look at the nature of the legal norms regulating interpersonal relations between spouses. The Family Act of 1952, and then the new Civil Code entering into force in 2014, which also incorporated the legal norms governing family relations, contained identical stipulations on how spouses were to remain faithful to one another while also laying down that the failure to honour this obligation, for example, does not lead to the application of any direct legal sanctions.²⁸ In actual jurisdiction, this obligation was interpreted as an expectation that behaviours damaging the interests of the spouse are forbidden. This shift in interpretation in terms of the content of the obligation is also expressed in the fact that the new Civil Code continues to reference faithfulness and cooperation as expectations alongside one another, in the very same sentence.²⁹

The above examples demonstrate that on certain occasions the legislator cannot or does not wish to define the nature of the expected behaviour through a legal norm, allowing for the possibility that the content of such “open” legal norms be shaped by the moral norms that reflect either the old or the new social order.

This being the situation, one must consider the relationship that exists between moral and legal norms.

We seem to be living in an apparently overregulated legal system where finding one’s bearings is quite a challenge even for lawyers. Nonetheless, it appears that society’s expectations concerning compliance with moral norms are only indirect or, in the case of certain moral norms, are non-existent; at the same time, compliance with legal norms is enforced by the state or at

28 Cf. Section 24 of Act IV of 1952 on marriage, family, and guardianship, and Section 4:24 (1) of Act V of 2013 on the Civil Code.

29 Cf. Section 4:24 (1) of Act V of 2013.

least there is a real chance that such enforcement takes place. This leads us to the conclusion that compliance with legal norms is safeguarded by a greater power. In essence, the state waives the enforcement of certain behaviours if they are not defined as a legal norm.

However, human behaviours are either lawful or unlawful if judged from the perspective of a given legal system. Therefore the difference is not whether the legislator classifies a given behaviour as appropriate or inappropriate; the difference is whether the legislator has supplemented the legal norm with the possibility of enforcing it in case voluntary compliance with the law is lacking. Creating such possibility of enforcement depends on several factors. It is, however, an empirical fact that legal norms that a majority of the given social community fails to comply with may not always be possible to enforce; if the legislator still makes an attempt to do so, it may be a disproportionate burden on the social community and may generate resistance against the ruling political system, which may eventually lead to the fall of the given political power. At the same time, conscious compliance with the law helps the emergence of large-scale social awareness of the law concerning the norm followed, which in turn exerts an influence on the behaviour of individual members of society, promoting voluntary compliance with the law. A key factor in voluntary compliance with the law is therefore how the individual consciously relates to her or his own behaviour and whether she or he considers such behaviour allowable or forbidden.

The legal norm is therefore followed widely if the members of the given social community are capable of identifying with the values and interests reflected in the legal norm. For this to happen, the majority must accept the behaviour prescribed by the legal norm as correct and in line with its own interests. On the other hand, legal norms that are in line with the moral norms of the times save the individual the effort to adopt new decisions, and customary behaviours make the behaviour of those living in the given community predictable. Therefore moral norms are able to sustain the stability of the social order even if at times of radical changes in the social and economic systems leave legal norms in a state of anomy.

At the same time, any uncertainty concerning whether the moral norms accepted and followed by a given social community in the past are actually appropriate, or, to say less, any uncertainty concerning the mere applicability of such moral norms might render the enforcement of legal norms impossible even if the content of those legal norms is otherwise compatible with the nature of the socio-economic order.

In 1998, the societal research institute TÁRKI published the results of its research on the period of the change of the regime in the 1990s, according to which in 1993 one in four Hungarians were in complete agreement with the following statement: “I am unable to find my bearings in life.” In 1997, barely over 15 percent of the population signed up to the same statement. At the same time, compliance with the norms did not improve: while in 1993, 77.9 percent of the respondents agreed partly or fully with the statement that “If you want to succeed you are forced to break certain rules here and there”, this ratio did not improve by 1997; instead, it slightly increased to 82%. This means that Hungarian society almost completely agreed that achieving financial success took breaching certain norms.³⁰ Comparing this with the data of East Germany, which was also going through its own regime change in the same period, we see that the level of satisfaction hit rock bottom in 1991-1992 in the eastern part of unified Germany because by then people had first-hand experience of the difficulties related to the new social and economic system; however, later on, the level of satisfaction increased gradually. On the other hand, the level of satisfaction also changed – specifically, deteriorated – in West Germany during the period studied.³¹

In other words, if at times of great social and economic transformations great uncertainties emerge as far as the moral norms are concerned, this is conducive to or may in fact temporarily render impossible experiencing otherwise positive

30 Spéder, Zsolt–Paksi, Borbála–Elekes, Zsuzsanna: *Anómia és elégedettség a 90-es évek elején* [*Anomy and satisfaction in the early 1990s*] in: *Társadalmi riport 1998*, (Kolosi, Tamás; Tóth, István György; Vukovich, György eds.) Budapest, TÁRKI, 500.

31 *Ibid.* 512.

political changes – such as, for example, the social advantages of obtaining and being able to exercise civil liberties – as a value, and, therefore, the emergence of any positive energies from such experience.

Another research conducted between 1988 and 1995 lead to the conclusion that people’s trust in the meaning of life is in close correlation with quite a few additional factors that also have a bearing on people’s positive quality of life. It is in positive correlation with community efficiency, including, among other things, religious practice and participation in non-governmental organisations.³²

Every legislator starts out of the assumption that the human being is capable of recognising the behaviour formulated in a legal norm – that is, the behaviour expected by the legislator – and is able to comply with such norm. When legal norms prevail, they prevail through decisions adopted by individuals out of their own free will. The human being is free to choose whether to comply with the legal norm or to shun it. Social norms are a value statement because, out of a range of possible behaviours, the behaviour one should adopt is chosen on the basis of assessing – evaluating – the alternatives in some way or form. Social norms therefore present model behaviours; in other word, they offer guidance in what the appropriate behaviour may be in any given specific case.

As the examples covered at the beginning of our talk have shown, legislators continue to rely on moral norms even in the era of modern legal systems. This is not merely an interaction; in fact, legislators adopt a legal norm whose content is a moral norm whenever they believe that any given moral norm is capable of efficiently regulating the relevant real life situation.

Thus, the legal norm promotes compliance with the given moral norm but only if the content of the given moral norm underlying the legal norm is clear for the members of society, or, in other words, if the members of society clearly understand

32 Kopp, Mária and Skrabski, Árpád: Magyar lelkiállapot az ezredforduló után [*The Hungarian State of Mind after the Turn of the Millennium*] (source: www.tavlatok.hu/86/86kopp_skrabski) 11.

the content of the moral norm on the foundation of which the legislator applies the legal norm. The reverse is also true: the enforcement of any legal norm may run into difficulties if, for whatever reason, the content of the relevant moral norm is not obvious for every member of the social community.

Legislation is a conscious process that changes in function of the legislator's intentions: in each and every case, it is an intentional and value-based choice between possible human behaviours. Legislation is also an instrument in consciously influencing social processes. It seems that the actual content of the legal norm can be freely shaped in function of the changing intentions of the bodies authorised to act as legislators; it is highly plastic material shaped freely by the legislator. At the same time, while the binding force of the law adopted by the legislator derives from the legislator's scope of competence, such authorisation in itself is far from being enough to ensure that the legal norm is actually complied with. If voluntary compliance with the law is lacking because of a narrow social base, a disorganised state may emerge as far as the relevant real life relations are concerned. For this reason, the law adopted by the legislator cannot enjoy complete exclusiveness. Actual compliance with legal norms depends on how socially embedded such legal norms are and how their content is determined by other types of social norms.

Therefore, the human behaviours prescribed in legal norms are not yet real; they will only become real in the future when they prevail and are complied with in actual human behaviours and therefore in the social conditions such norms set out to regulate.

But what decides whether any act is good or evil? In other words, what decides on values? Individuals will be fast in responding that "good is what is good for me." From this perspective, good may take many shapes – just about as many as there are human beings on Earth. Any reference to customs can also represent a hazard because our customs may well be incorrect, or, to use another word, immoral.

In the examples set out at the beginning of this talk, the legislator assumed that there existed a superior, natural legal system of transcendental nature, this being the reason for the above-mentioned openness towards the norms of this legal

system, a natural legal system that permanently and integrally incorporates moral order, and which is independent both of the individual's subjective desires and of the historical and social conditions of the times. This natural legal system also makes it impossible for any positive law to exist if it breaches the moral order. Accordingly, the moral order on the foundation of which the legislator can build must be objective and absolute, something that enables for the sentient human being to perform good acts and to abstain from performing evil ones.

*Dr. Andrea Szigeti
College Associate Professor
Gál Ferenc College*