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NORMATIVE EVENTS*

abstract

I introduce the novel concept of normative events and I defend the thesis that they are normatively heterogeneous but metaphysically homogenous.

keywords

events, norms, metaphysics of norms

1. Introduction

In this work I introduce the novel concept of normative events and I defend *two* theses on the existence and nature of norm-related events.

First, I maintain that norm-related events are normatively *heterogeneous*. In particular, there is a significant difference between *nomophoric* events (events with norm-related consequences, such as the acquisition of property) and *nomogonic* events (events themselves generating norms or values).

Second, I maintain that norm-related events are metaphysically *homogenous*. In particular, they are neither abstract universals or properties, nor concrete particulars: normative events, I contend, are abstract particulars.

In §2 I shall defend my *first* thesis: norm-related events are normatively *heterogeneous*.

In §3 I shall defend my *second* thesis: norm-related events are metaphysically *homogenous*. I argue that normative events are abstract particulars (or tropes, as abstract particulars are possibly called).[1]

2. Norm-related Events as Normatively Heterogeneous

Prephilosophically, an event [*evento, Ereignis, évènement, wydarzenie* and *zdarzenie*] is a thing that happens: my yesterday walk, the sun rising here today, that girl's smile, Caesar's murder. For the purposes of this work, I will assume that there are events, without endorsing any particular metaphysical thesis.

I shall provide quite a few distinctions about norm-related events to clear the field.[2]

2.1. Nomophoric *vs* Nomogonic Events

First, there are *nomophoric* events: events that have norm-related consequences, that is, consequence established *ab extra* by some body of norms or rules. Birth, for instance, while being a perfectly natural event, has a normative valency (notably, in the Italian system, the acquisition of the so-called "capacità giuridica").

Second, there are what I call *nomogonic events*, that is, events that are intrinsically normative, events that generate norms or values, *ex* normative *nihilo*, as it were.[3]

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1 In this work I don't take into account what Italian legal scholars call 'evento', that is, the consequences of criminally-relevant conduct. In this reading, "evento" (*Ereignis*) is merely an "esito" (*Ergebnis*), an outcome.
2 In this paper I just offer an abductive defense of the existence of normative events. I aim to show that they, if accepted, have greater explanatory power than existing theory.
3 On a lesser note, one can distinguish also between (i) events regulated (constituted) by rules, such as a wedding and (ii) events that are required, ordered, permitted (and so on) to happen; events that are the argument of an obligation, for one.

Possible examples are revolutions, referenda, consuetudes (customs) or, in certain legal systems such as common law, prior court sentences.

(Here I am using examples taken from the law, but the phenomenon I am describing is not at all confined to the legal domain. One can easily think of moral systems, or "un-legal" (extra-legal) systems, such as criminal organizations or mafias.)

An interesting objection at this point is that there is no such thing as nomogonic events; rather they are at best nomophoric events, and can be reduced to them. Consider a vote by a legislative assembly whereby new legislation is enacted. Yes, new norms are created, but this is not a nomogonic event: new norms are created because other, preexisting norms regulated such production. I shall come back to this objection *infra.*

Can nomogonic events be reduced to nomophoric events? No. In fact, neither the presuppositions nor the consequences of nomogonic and nomophoric events coincide.

First, their presuppositions differ: as for nomophoric events (events generating norm-related effects), they *presuppose* the norms they refer to. Nomogonic events (norm-generating events), on the contrary, *create* new norms, possibly even without presupposing any norm at all.

Second, their consequences differ: norm-related consequences aren't themselves norms, but merely norm-regulated possible extra-normative effects.

Third, were nomophoric events not to take place, then just some regulated consequences wouldn't occur. Quite on the contrary, were nomogonic events not to take place, then we wouldn't have any (new) norm, full stop.

Using a rather well-known (but metaphysically contentious) parlance (type *vs* token): without nomophoric events, we wouldn't have tokens; without nomogonic events, we wouldn't have (new) types.

2.2. Nomophoric Events

Nomophoric events are events with norm-related consequences. In a slight more formal definition:

> An event is *nomophoric* iff the happening of that event brings about (alone or jointly with other conditions) certain consequences established by one or more norms.

This seems to me the most common case, and examples abound. Births, for instance, are nomophoric events (in the Italian legal system). The event of someone's birth brings about his or her possession of the so-called "capacità giuridica", according to the Italian Civil Code. Deaths are another example of nomophoric events (at least in the Italian legal system). The event of someone's death simply renders one's crime void, extinguishing it ("La morte del reo avvenuta prima della condanna estingue il reato" Italian Penal Code, art. 150).

2.3. Nomogonic Events

Nomogonic events are norm-creating events. In a slight more formal definition:

> An event is *nomogonic* iff the happening of that event brings about (alone or jointly with other conditions, that may or may not take place with reference to already established norms) one or more norms, including norms repealing existing ones.

Nomogonic events are intuitively more problematic to grasp, because one would need a precise theory of what it is for a norm to come about, to come into being (German: *entstehen*), or, symmetrically, to go out of existence (German: *vergehen*).

Examples are harder to come by. I will consider three possible candidates: consuetudes, revolutions, referenda.

Consuetudes, or customs, make plausible candidates for nomogonic events. This partial

conclusion is subject to at least *two* conditions: *first*, that consuetudes can be understood as events; *second*, what stance one takes with regard to consuetudes in a legal system.

As for the first condition, whether consuetudes are genuine events depends on the metaphysical understanding of events one endorses.

As for the second condition, one may say that the fact that consuetudes produce new norms is (implicitly or explicitly) already recognized in and by a legal system; therefore, consuetudes would make at most a case of nomophoric events (events with norm-related consequences), but not one of nomogonic events (norm-creating events).

At the moment, I have no conclusive argument to solve the question of whether consuetudes are nomogonic events.

Revolutions are another plausible candidate for the role of nomogonic events. Revolutions alter the normative *status quo*, bringing about new norms and canceling others, often without any continuity. Intuitively, revolutions are events, and therefore revolutions are a plausible candidate for the role of nomogonic (norm-creating) events.

Referenda are of various kinds. In what follows I will consider what I label "constitutive" *referenda*, i.e. propositive, deliberative or legislative referenda. These kinds of referenda are all law-creating, and since (under plausible views of events) referenda are events, we seem to have a genuine example of nomogonic (norm-creating) events.

One possible objection would be to say that these referenda are regulated by rules and norms already established: these referenda are surely norm-creating, but this norm creation is already accounted for in the general legal system. Constitutive referenda would at most be a case of nomophoric events, not of nomogonic events.

One easy reply is the following: in normal cases it is true that referenda are already regulated. But history is full of cases of "spontaneous", previously unregulated referenda.

However, there is a conceptual argument for the existence of purely nomogonic events based on a *reductio*, and it is just a *regressus* argument. In fact, even admitting that each new norm is produced somehow according to a chain of previous norms, across societies, eras, and systems, there must be an event unconnected to previous norms originating the first ones. Of course this argument depends on two premises: first, that there is such a thing as norms; second, that norms come somehow into being, rather than co-existing at the same fundamental level as the rest of what there is. Not accepting either of these two premises results in the argument failure.

2.4. Structural Overlapping

In the preceding sections, I put forward a distinction between nomophoric and nomogonic events. While providing the definition and examples of nomophoric events (events with norm-related consequences) turned out to be apparently uncontentious, the examples of nomogonic (norm-creating) events turned out to be strained with difficulties.

These difficulties were threefold. *First*, there are difficulties caused by the metaphysical notion of event. *Second*, there are analogous difficulties caused by the notion of norm. *Third*, there are (I would say) structural difficulties in dealing with both nomophoric and nomogonic events. As matter of fact, every time I tried to isolate some genuine norm-creating, nomogonic event, it seemed that this event was already entrenched in a normative web. Thus, consuetudes create new norms as far as this generative mechanism is already accepted in the law; referenda are norm-creating if this is already accounted for by the rules on referenda.

In one sentence, it seems that nomogonic events are never independent from prior norms or rules, and therefore never independent from, say, nomophoric events. This last conclusion seems at odds with the mutual non-reducibility of nomophoric events to nomogonic events, and viceversa (non-reducibility that I maintained *supra* at §2.1.).

Of this phenomenon I propose a cause, and a possible way out.

The cause why nomogonic events seem to factually presuppose nomophoric events is relatively straightforward, and lies in the eye of the beholder. Nomogonic events seem to factually presuppose nomophoric events because I have always looked for examples in current (already established and highly regulated) normative systems. It is therefore quite easy to see that all licit means of creating new laws (say) are already catered for by existing laws.

But this is only a contingent matter. I don't see any conceptual reason to hold that, going back to "primitive" law, or considering exceptional, lawless circumstances, or moral systems, one cannot find example of genuine nomogonic events.

A possible way out to reconcile the irreducibility of nomophoric events and nomogonic events with the fact that they seem closely related is the following.

While being distinct and irreducible to one another, nomophoric and nomogonic events may be (mereologically) related: they may have parts in common, through an overlap.

Consider the following scenario: you have a nomophoric event, that is, an event α with norm-related consequences $(a_1, \ldots, a_n)$.

There is no conceptual reason to preclude the fact that the norm-related consequences $a_1, \ldots, a_n$ may themselves be events. In turn, one of these event: a_m, (with $1 \leq m \leq n$) may well be a nomogonic one, that is, it can create new norms while itself being the consequence of a previous, norm-related event. It must be noted that one may take the events $(a_1, \ldots, a_n)$ to be ordered. The ordering between events, which we may denote as "$\leq$", it is not necessarily isomorphic to the number ordering. In fact it is more fruitful to require the event ordering to be a partial ordering representing a parthood relation.

In this scenario the nomophoric event α and the nomogonic event am are distinct but related through their overlapping parts. (They are nonetheless distinct because it is not the case that every part of α is a part of a_m and that every part of a_m is a part of α. Of course this way out is not metaphysically neutral. In particular, it admits that events have parts, and it subsumes the consequences of an event into that very event). A related interesting question is what to make of these "mixed" events, that is, whether they constitute a genuine new type, or can be reduced to or subsumed in one of the other.

2.5. To Sum Up

I have maintained that we can isolate, among generic events, a particular category of normative events. There are two kinds of normative events: nomophoric events (events with norm-related consequences) and nomogonic events (norm-creating events). I provided reasons to keep these two kinds distinct, and I tried to give definitions and examples of both. I argued that a nomogonic event can presuppose a nomophoric event without being reducible to it: normative events can in fact partially overlap without being reducible to one another. In what follows I deal with the metaphysics of normative events, and argue against normative events seen as *objects* (in §3.1), *facts* (in §3.3), and *properties* (in §3.2). I shall argue for the thesis that normative events are abstract particulars.

3. Norm-related Events ss Metaphysically Homogeneous

I will argue in §3.1 that normative events cannot be considered concrete particulars; in §3.2 that normative events cannot be considered universals; in §3.3 that normative events cannot be considered facts; in §3.4 that normative events are abstract particulars. In this section I hold that both nomophoric and nomogonic events share their nature: they aren't abstract universals nor concrete particulars; normative events are abstract particulars.

3.1. Normative Events as Concrete Particulars?

One may say that normative events can be reduced[4] to objects.[5] One notable proponent of the reduction of events to objects is (Quine, 1960): there is only one event for each and every spatiotemporal region, an event that coincides with the objects there. (Quine, along with Broad (1923), Whitehead (1929) and Goodman (1951) (among others), didn't conceive of objects as *three*-dimensional entities, but is rather a *quadrimensionalist,* i.e. objects would extend across time exactly as they extend across space. Davidson (1980) individuates events by their spacetime location, causes and effects.)

It seems unlikely that (normative) events can be reduced to objects (traditionally conceived) for *three* main reasons. *First*, objects are said to exist, whereas events happen (take place, occur). *Second*, objects occupy a defined spatial location, but have undefined temporal boundaries (whereas events have clear temporal boundaries, but often unclear spatial ones). *Third*, events tolerate co-location in a way objects don't seem to.[6]

For these reasons, the reduction of events (and *a fortiori* of normative events) to objects seems to come at considerable ontological costs.[7]

3.2. Normative Events as Abstract Universals or Properties?

Since properties are usually conceived of as universals, normative events could be considered as (normative) properties only if they are conceived of as universals. But this is controversial and rather counter-intuitive, because of *two* reasons: *first.* events would inherit all the problems of universals; *second*, the very possibility of token-events (of particular, one-time, unique events, such as my graduation last July, or — in Christian belief — Jesus' Resurrection) would be ruled out.[8]

Of course, properties can be construed not as universals, but as abstract particulars, or tropes. This is the view I favor, and on which I'll expand in §3.4.

3.3. Normative Events as Facts?

May normative events be reduced to facts, normative or otherwise? This remains unclear, also because it is unclear what facts are. On plausible reading, facts are a-spatial and a-temporal, whereas events (at least occurrences thereof) seem spatial and temporal. Adapting a rather well-known example of Ramsey (1927), the *event* of Caesar's crossing the Rubicon took place in Gaul in 49 b.C., but that Caesar crossed the Rubicon is a *fact* also here and now.

Thus, events and facts seem quite different, even if they are similar by many standards.

In the following section I will characterize normative events as abstract particulars or tropes.

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4 The smallest and more accurate step would be to reduce normative events to normative objects. I won't consider this option in this work for simplicity's sake.

5 I am using 'object', here, as a mere signpost for concrete particulars, with no commitment either to an Aristotelian theory of substances, or to substratum or bundle theories. Substratum theories hold that a concrete particular is a whole made up by a substratum — a bare particular — and its various properties; Bundle theories hold that concrete particulars are just clusters of their properties.

6 For these and other general observations, see Casati and Varzi, 2010.

7 One can also add all the objections leveled against Kim's (1993) theory of events as concrete particulars of the form <object(s), property or relation, a time (or an interval of time)>. Kim also proposes existence (if the object(s) exemplifies the property) and identity conditions of events (point-wise identity).

8 An ingenious proposal is to treat events as properties of moments or times (Montague, 1969), during which certain statements hold (Van Benthem, 1983): my marriage is identified by an ordered triple <t, s, ψ> where t is the relevant time frame, s the relevant region in space, ψ is the sentence 'I am married to a'. It is immediately apparent how this proposal would be appealing for a theory of the validity of norms in a specified spatiotemporal frame.

That events cannot be universals (unless we are prepared to bear high ontological costs) I have argued *supra* at §3.2.

That normative events cannot be concrete particulars (or objects) I have argued *supra* at §3.1. It seems plausible, however, to consider events as particulars: this perspective captures some basic intuitions, such as the fact that they seem to have clear temporal boundaries, to have spatial (though unclear) boundaries, to occur or recur — all traits oddly ascribed to universals. These are the reasons why I shall endorse a theory of events as *abstract particulars*.[9]

Abstract particulars are instantiations (hence 'particular') of entities of an abstract nature, such as properties. Of course one need not to have abstract universals to have abstract particulars. (In an other parlance, the existence of particular tokens doesn't entail the existence of real types: types might be only conceptualized.) The orangeness of the persimmon I have now in my left hand, be it even the same orangeness of that book cover, doesn't require "orangeness" to exist.

It is possible to conceive of events as abstract particulars: events so characterized would tolerate co-location (my persimmon can be orange and at the same time round; in the same time and place of my walk there can also be the event of me thinking this paper) and *a fortiori* be spatial and temporal (in a way that abstract universals cannot be).

Of course if one considers normative events to be abstract (particulars), then one has to explain how can "factual" consequences come from *non*-factual (abstract) entities. But this problem is — alas — common to a bunch of philosophical disciplines, from philosophy of mind, to the free will debate, beside metaphysics and the philosophy of normativity.

If there is such a thing as normative events, it would be extremely pressing to investigate their relationships with "norms", whatever they are. I defer a full exploration to future work; in the meantime let me map the field of their logical relations:

1) Normative events and norms are identical: every normative event (perhaps in the stronger sense of nomogonic event) *is* a norm, and viceversa.
2) Normative events and norms are equivalent: every time there is a normative event there is also a norm, and viceversa.
3) Normative events and norms are disjoint: not every norm presuppose a normative event (the other direction is precluded by the definition of a normative event proposed *supra*).
4) Any of (1) - (3) modalized, i.e. taking into account also all possible normative events and norms, and not just the actual ones.

It is trivial to show that (1) implies (2), but not viceversa; and to show that (3) does not imply (2), and therefore it does not imply (1) either.

Obvious open questions I hope to tackle in future work remain: what are the identity criteria for events (conceived as abstract particulars)? What are the identity criteria for norms? To what extent these coincide?

To what extent admitting normative events is a step towards the so-called "legal (or more generally, normative) abstractism [giusastrattismo]" (cf. Faroldi 2016)? Is the existence of *negative* normative events a good explanation for phenomena like omissions, derogation and desuetude?

3.4. Normative Events as Abstract Particulars

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9   The debate on abstract particulars in modern times probably started with (Stout 1923) and (Williams 1953).

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