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CORPOREAL DRAWN NORMS. AN INVESTIGATION OF GRAPHIC NORMATIVITY IN THE MATERIAL WORLD OF EVERYDAY OBJECTS

abstract

Starting from the ontological question of norms, namely from the question “What do we talk about when we talk about norms?”, the author highlights the existence of thetic norms, that is, norms established through an act of normative production, which have not been formulated linguistically. Notably, the author focuses on drawn (or graphic) norms, that is those norms that do not arise from a linguistic formulation or from a linguistic representation, but from a graphic representation, from a drawing (for example, Ikea’s diagram instruction manuals and traffic signs). In conclusion, the author examines a particular set of drawn norms, corporeal drawn norms, and investigates their essentially deictic nature.

keywords

drawn norms, graphic norms, normative drawings, normativity, non-verbal norms, thetic norms, corporeal norms, deicticity

1. Thetic norms vs. aesthetic norms

A few years ago, John Searle (2010, p. 5) wrote that “philosophical disciplines are not eternal”. Philosophy of normativity is evidence in support of this view. It was not until the twentieth century that norm and normativity became fully-fledged autonomous and specific objects of philosophical investigation.¹ Notably, in the twentieth century, philosophers, logicians, jurists and sociologists questioned the nature of norms, asking themselves a question (which echoes the title of a well-known book by Raymond Carver: *What we talk about when we talk about love*): What do we talk about when we talk about norms? This is one of the fundamental questions of philosophy of normativity, the matter of the ontological status of norms: What type of entity is a norm?²

Some of philosophers of normativity have conceived norms as “linguistic entities” and have investigated them starting from their linguistic formulations, that is from the *sentences* (in German: *Sätze*) that express them. Basically, even the deontic logic elaborated by Georg Henrik von Wright in 1951 was born as an investigation on the logical relations between norms intended as linguistic entities and more precisely as “deontic propositions”.³ In this regard, the definition of norm offered by Norberto Bobbio in the book *Teoria della norma giuridica* (A theory of legal norms) is quite exemplary:

A norm is a proposition. A code, a constitution are a set of propositions. [...] By “proposition” we mean a set of words that have a meaning as a whole.⁴

A similar characterisation of norms as verbal norms was proposed in the book *Rules. A Systematic Study* by Joan Safran Ganz, who asks: “To what does the word ‘rule’ refer?” Ganz succinctly replies to this question: “Rules can be utterances as well as inscriptions, and “rule”

1 For an interesting reconstruction of the origin of the term ‘norm’, see Orestano (1983).

2 And in particular, see Conte (1974, 2007). The first section of the anthology *Filosofie della norma* (Philosophies of norms), published in 2012 and edited by Lorenzo Passerini Glazel and myself, is dedicated to the question of the ontological status of norms. The section is entitled *Ontologia della norma* (Ontology of norms). Recently, a special issue of “Phenomenology and Mind” was published on the subject, entitled *Norm: What Is It? Ontological and Pragmatical Perspectives*, edited by Paolo Di Lucia and Lorenzo Passerini Glazel.

3 See von Wright (1951, 1957).

4 Bobbio (1958, p. 75).

refers to both utterances and inscriptions”.⁵

These philosophers mostly had in mind those types of norms that Czesław Znamierowski in his book *Podstawowe pojęcia teorii prawa. Część pierwsza: Układ prawny i norma prawna* (Fundamental concepts of the theory of law. First part: Legal system and legal norm) calls “thetic norms” (in Polish: *normy tetyczne*)⁶, namely those norms that are the product of a *thésis*, of a decree issued, of a “nomothetic act” (for example, an order or a legislative act), such as the regulations of the Italian Constitution.⁷ Riccardo Orestano would have called them “proclaimed norms” (in Italian: *norme statuite*).

However, alongside thetic norms we also have “athetic norms” (non-thetic norms), to borrow an expression from Amedeo Giovanni Conte.⁸ Athetic norms are all those norms that *are not* generated through a nomothetic act, or an act of decree. For example, the norms of folk laws are athetic norms, and more generally, so are the customary norms of spontaneous social systems. For example, the rules surrounding mushroom and truffle picking, which for hundreds, or perhaps thousands, of years have regulated wild mushroom picking in the woods of Lombardy and Piedmont, are athetic norms.⁹ The norms of the folk law of the Barbagia region of Sardinia, investigated by the Sardinian jurist and philosopher Antonio Pigliaru in his book *La vendetta barbaricina come ordinamento giuridico* (Barbagian revenge as a legal system), are also athetic norms. In 1959, Pigliaru studies the set of customs that revolves around vendetta and governs the lives of the shepherds from the village of Orune on the Italian island of Sardinia, reconstructing these customs in the form of the “Barbagian Code”.

These rules clearly do not arise from a nomothetic speech act by an unlikely legislator, and their existence precedes their linguistic formulation. Customary rules already existed before they were formulated linguistically. These rules are originally devoid of linguistic formulations, although, as Theodor Geiger claims in his *Vorstudien zu einer Soziologie des Rechts* (Preliminary studies for a sociology of law), they can subsequently find linguistic expression in a codification or even a proverb.¹⁰

However, not all thetic norms are also necessarily verbal norms, just as not all non-verbal norms are necessarily athetic norms. This is a very important point. It must be emphasized that the thetic acts that produce norms are not necessarily all “speech acts”. An interesting subset of thetic norms does in fact consist in “non-verbal thetic norms”. The latter are norms that are indeed established by a thetic act (by an act of decree), but which nevertheless do not arise from a linguistic formulation and are not verbally configured originally.¹¹

I came across a curious case of non-verbal thetic norm a few years ago, at Mario Mameli

2. A subset of thetic norms: non-verbal thetic norms

5 Ganz (1971, p. 13).

6 On the concept of “thetic norm”, see Znamierowski (1924).

7 On the concept of “thetic act”, see Conte (1986) and Lorini (2000; pp. 238-240).

8 Regarding the concepts of “athetic norm” and “athetic validity”, see the essay by Amedeo Giovanni Conte *Validità athetica*, and its English edition, titled *Athetic Validity*, which can be found in the current issue of “Phenomenology and Mind”. The English translation is by Lorenzo Passerini Glazel and Olimpia Giuliana Loddo.

9 See Sacco (1970).

10 See Geiger (1947). It is worth noting that, beyond these codifications, athetic norms can also be expressed in proverbs. Namely, “legal” proverbs often express the athetic norms that make up folk laws. As already noted by Émile Durkheim (1895, p. 12; Eng. trans. pp. 54-55), law, like other social facts, “by a privilege without example in the biological kingdom, expresses itself once and for all in a formula repeated by word of mouth, transmitted by education and even enshrined in the written word. Such are the origins and nature of legal and moral rules, aphorisms and popular sayings.”

11 For an investigation into the nature of non-verbal thetic norms, see Lorini (2011).

Italian airport, near Cagliari. I was heading for the lounge area of a bar I used to sit down in for a quick meal before boarding, but I found the entrance blocked by a row of chairs. The row of chairs wasn't close enough to actually block the entrance. You could easily cross it as the chairs were about a meter apart. I asked myself: Why was this row of chairs here? Was it just a row of chairs devoid of any meaning? Clearly not. That row of chairs had a meaning, and a very specific normative meaning in fact: "Do not go beyond this line! Do not enter!". When had this norm been established, forbidding access to the lounge area? Quite simply, when those chairs had been lined up by some waiter to obstruct entrance to the lounge. When would the ban be lifted? When those chairs would be removed. There was no need for words here.

The phenomenon of non-verbal thetic norms has attracted the attention of at least four philosophers, who in the course of the twentieth century reflected on the nature of thetic norms and how they manifest, as they do not arise from a speech act and do not consist of a linguistic configuration. These four scholars are Felix E. Oppenheim, Hans Kelsen, Karl Olivecrona and Gaetano Carcaterra. Interestingly, all four focused on the investigation of two stop signs, two seemingly trivial phenomena that characterise motorists' everyday life: the red of the traffic light and the traffic policeman's stop gesture.

Oppenheim reflects on the phenomenon of non-verbal thetic norms in his essay *Outlines of a Logical Analysis of Law*. Here, Oppenheim (1944, p. 142) observes that "[l]egal rules, decisions, commands, are generally expressed by words of a natural language, like English". But, according to Oppenheim, there are also rules that are expressed through "non-linguistic signs", for example: (i) the whistle of a policeman; (ii) stoplights, (iii) a gesture made by a traffic policeman.

A similar observation appears in Kelsen's essay *Eine phänomenologische Rechtstheorie* (A phenomenological theory of law). Here Kelsen states that a norm does not need to be formulated linguistically. He says this in explicit relation to the stop gesture of a traffic police officer. Kelsen (1965, p. 355) states that a legal norm can consist of a simple gesture:

That a legal norm [*Rechtsnorm*] need not be formulated linguistically, is demonstrated [...] in the fact that the act, the meaning [*Sinn*] of which is a legal rule [...], can also be a gesture [*Geste*]: with a specific movement [*Bewegung*] of their arm, a traffic police officer orders us to stop, and with yet another gesture, tells us to move along.

According to Kelsen (1965, p. 355), "the meaning of these gestures is a mandatory legal norm [*verbindliche Rechtsnorm*]". The same is true, according to Kelsen, for traffic lights.

The normative nature of traffic lights has also caught the attention of Olivecrona, who, in the second edition of the book *Law as Fact* (published in 1971), examines the phenomenon of non-verbal thetic norms in the framework of his theory of "independent imperatives" (in Swedish: *fristående imperativer*). Olivecrona (1971, p. 129) defines "independent imperatives" as imperatives that "are independent of the personal relationship characteristic of a command". He denies that independent imperatives are necessarily verbal norms (such as moral norms and legal norms). According to Olivecrona, in fact, there are non-verbal signs that have the function of independent imperatives. An exemplary case of a non-verbal normative sign is that of the traffic lights that manage traffic.

It seems correct to include a number of mute signs, as for instance traffic lights. Even a fence around a garden or the lock to one's door may be said to have the function of an independent imperative. Usually neither the fence nor the lock is a physical obstacle of importance to an intruder. But both of them are signs to stop and keep hands off.

If one looks at things in this way, independent imperatives of different kinds will be encountered at almost every step.¹²

Here Olivecrona seems to have identified a very interesting set of phenomena for the philosophy of normativity, which we could call “deontic artifacts”, as we are dealing with material artifacts such as road signs, traffic lights, fences and padlocks that perform a “deontic function”.

Carcattera also reflects on the regulatory function of the traffic light and the traffic police officer’s whistle in his book *Le norme costitutive* (Constitutive rules), published in a provisional edition in 1974 and reissued exactly forty years later, in 2014. In this book Carcattera (2014, p. 19) explicitly takes a stand against the theory of the linguistic nature of norms when, after having supported the theory that norms are meanings, surprisingly and succinctly writes: “We conceive meanings and propositions as entities of a non-linguistic nature”.¹³ This theory of Carcattera’s is also highly relevant to the question Georg Henrik von Wright raises, namely whether all rules are *language-dependent*. Carcattera writes (2014, p. 31): “I do not see the need for a linguistic requirement for prescriptive acts”. With these words Carcattera seems to take a stand against a “logocentric” perspective of norms.¹⁴ For Carcattera, the domain of normativity and normative phenomena goes beyond the framework of language with its written or oral statements. While calling them “marginal”, Carcattera actually also opens the investigation to “hypotheses of standardization that are expressed through a language that is non-verbal” like “the light of a traffic light, a road sign, the whistle of a policeman, a single trumpet blast”. And he adds that “on certain occasions even a gesture or a glance can implement a normative act”. In these cases, Carcattera writes (2014, p. 7), “we will talk about a set of *signals* instead of sets of words and, if we want to, of *expressions* instead of utterances, and in the end there would be no difficulty in rethinking the rules more broadly, like the expressions used by the legislator”. Here Carcattera (2014, p. 23) draws our attention to what he calls “the significant structure of the act”: “Norms are also, and indeed first and foremost the meanings of normative acts.” And there are non-speech acts (which are not performed through utterances) that express norms.

Here are other examples of Carcattera (2014, p. 32) which also show his “mindfulness” of the rich phenomenology of normativity: “a threatening silence, a warning act of violence, so-called demonstrative actions, a life complex kept with exemplary intent.” I am reminded of the case of the Zen masters who teach the Dharma without words (it seems that Gutei, a famous Zen master, always answered his students by simply raising a finger); and the words of Palamon the anchorite who said to a monk asking him about the behaviour one should adopt with one’s disciples: “Be an example [typos] to them and not a legislator [*nomothetēs*].”

¹² Olivecrona (1971, p. 129).

¹³ Perhaps, the origin of Carcattera’s theory lies in what Alonzo Church writes in the essay *Propositions and sentences*, 1956, where he makes a distinction between the traditional sense of proposition and a more recent abstract sense according to which the proposition would be the objective content of the meaning of a declarative statement. I owe this reference to Paolo Di Lucia.

¹⁴ See Maynard (2017). In this respect, the ontological hypothesis on norm offered by Rafael Hernández Marín (1986, p. 39) is interesting. According to this theory, a norm could be a “quasiproposition” (in Spanish *cuasiproposición*). This is how Hernández Marín (1986, p. 33) defines quasipropositions: “A quasiproposition is [...] a quasientity; it is like a proposition, but with the difference that it can exist without a statement that expresses it.”

3. A subset of non-verbal thetic norms: drawn norms

In the previous paragraph I named and examined some examples of non-verbal thetic norms. To continue with the investigation of non-verbal thetic norms, I would now like to start with a philosophy of drawing question:¹⁵ can a drawing perform a normative function? In other words, we could ask ourselves: besides descriptive drawings, are there also deontic drawings? A positive answer to this question is suggested by an observation made by Ludwig Wittgenstein, which can be found in his *Philosophical Investigations*. Here, reflecting on the hypothetical communicative uses of a painting representing a boxer fighting, Wittgenstein distinguishes a normative use from a merely descriptive use. Wittgenstein writes (1953, § 23):

Imagine a picture representing a boxer in a particular stance. Now, this picture can be used to tell someone how he should stand, should hold himself; or how he should not hold himself; or how a particular man did stand in such-and-such a place; and so on.¹⁶

Thus, according to Wittgenstein, a picture that represents a boxer in a certain fighting stance can express an Ought, can tell someone how to hold himself during a boxing fight. Here is a first example of a deontic drawing.

A second example of deontic drawings has been a theme for urban planners, particularly in relation to the investigation of the nature of urban plans. As Stefano Moroni points out, in the book *Urbanistica e regolazione* (Urban Planning and Regulation), while questioning the nature of an urban plan, “an urban plan is a set of propositions (analytical and) normative, drawn and written by means of which rights are recognised or established, and rules of production and consumption of the physical environment are expressed”.¹⁷ In this definition of urban planning, a contrast appears between two types of normative propositions that make up an urban plan: “written” normative propositions and “drawn” normative propositions.¹⁸ The idea that there are normative propositions that are expressed not by sentences but by drawings is particularly interesting for my investigation.¹⁹

The following is a third example of a deontic drawing:



¹⁵ The origin of the recent discipline of the philosophy of drawing is to be found in Patrick Maynard’s book *Drawing Distinctions. The Varieties of Graphic Expression*, published in 2005.

¹⁶ There is a curious reference to the use of photographic images in statutes in Radin (1930, p. 871).

¹⁷ Moroni (1999, p. 15).

¹⁸ The hypothesis that drawn normative propositions exist was recognised in 2001 by another urban planner, Patrizia Gabellini (2001, p. 429), who introduced the expression ‘figurative norms’ (in Italian: *norme figurate*).

¹⁹ From Stefano Moroni’s definition of urban plan, a contrast transpires between norm as “linguistic form” and norm as “graphic form”. On normative drawings in urban planning, see Moroni & Lorini (2017).

These are graphic instructions, technical norms, for the assembly of a piece of furniture from the famous Swedish company Ikea.²⁰

A fourth example of a deontic drawing is the following:



It is clear that this is a sign that prohibits smoking.

These non-verbal thetic norms that do not arise from a linguistic formulation, nor a linguistic representation, but from a graphic representation, from a drawing, can be called “drawn (or graphic) norms”.²¹

In the previous paragraph I examined some examples of drawn norms. Further examples of drawn norms are normative road signs: for example, the triangular sign that requires drivers to give way at a junction, the round sign with a white arrow on a blue background that requires drivers to follow the direction of the arrow, the no stopping sign.²²

It is precisely from the image of a no stopping sign that I photographed a few years ago, in a street in Cagliari near the Law Department, that I would like to start the investigation of a subset of the drawn norms.

4. A subset of drawn norms: corporeal drawn norms



20 For an interesting study of Ikea’s graphic instructions from another point of view (from the point of view of the pragmatics of pictorial communication), see Frixione & Lombardi (2015).

21 On the specific subject of drawn norms, see Lorini (2015), Lorini & Moroni (2017), Maynard (2017), Moroni & Lorini (2017) and Lorini & Moroni (forthcoming). On the topic of this term, a curious document is the definition of “drawn norm” that appears in article 57 (entitled: *Drawn norm - definition*) of the General Project Report for Changes to the Urban Development Plan (also known as Z.F.U.) of Erice (Italy), adopted on 8 February 2013, proposed by the architect Francesco Tranchida: “By ‘drawn norm’ we mean a set of criteria and prescriptions, accompanied by one or more graphical diagrams, which summarise the aims of the individual transformation projects foreseen by the guiding framework, the principle and settlement rule to be respected, the quantities of public and private land to be dedicated to different types of use”.

22 Loddo (2017) also suggested the existence of a “drawn constitution”, examining curious normative drawings in Freetown Christiania. Other interesting examples of deontic drawings such as musical scores and maps of the Route of St James to Santiago de Compostela were investigated by Smith (2013).

What is strange about this no stopping sign? Clearly this is a torn up, uprooted road sign, a phenomenon that offers an interesting starting point for a reflection on the ontology of drawn norms. The phenomenon has already caught the attention of Karl Olivecrona, who in the essay *Lagens imperativ* (The imperative of law) writes: “The road sign [vägskylt] has no imperative character [*imperativ karaktär*], when it lies in a pile with other signs at the painter’s workshop, or when it is buried in a hole in the street. However, when located in its rightful place, we understand that it is located there to regulate traffic”²³. Olivecrona emphasises a fact that seems obvious: a road sign, like a traffic light, carries out its regulatory function only when it is “in its place”.²⁴

But there is more to it, as Franciszek Studnicki pointed out in his essay *Traffic Signs*: the uprooted road sign also makes us reflect on the deictic nature of road signs. Studnicki (1970, p. 155) writes:

The peculiar property of TS [Traffic Signs] system, consisting in the fact that each of its signs: (a) carries information referring to a certain section of a road and, at the same time, (b) indicates by its geographical position the section of the road to which that information refers, I shall call “the deicticity of the TS [Traffic Signs] system”.²⁵

As Studnicki points out (1970, p. 155), road signs are “utterances having fully defined meanings only when the geographical positions of the sign of which they are composed are taken into consideration”. In other words, the normative meaning expressed by a road sign is complete only in relation to what Karl Bühler calls the *origo* of the signal, that is the place where the sign was placed into the ground. Normative road signs are deictic signs, and as such they need a space-time *origo*. This space-time *origo* is determined by the action of driving that road sign in the ground. A torn down road sign is a sign devoid of *origo*, without space-time coordinates: it is an “unsaturated” deontic sign.

Thus, what Bühler writes in his book *Sprachtheorie. Die Darstellungsfunktion der Sprache* (Theory of language. The representational function of language) is also essential to the meaning of the road signs, and refers to the “symphysical field” (in German: *symphisches Umfeld*) of a sign. In this work, Bühler (1934, p. 159; Eng. trans. p. 179) investigates the phenomenon of names that signify insofar as they are “physically attached [*dingfest angeheftet*] to what they name”. The symphysical field is the material element to which the names are associated. For example, “[b]rand names are stamped on products, place-names are written on signposts and objects are ‘signed’ with the proper name of the owner or marker”. He adds: “[t]he titles of books and of chapters, laconic names inscribed on pictures and memorials are all also physically connected and affixed to what is named”.²⁶ These names “require the reader to follow deictic instructions to find the thing named”.²⁷ For example, in the case of the brand name appearing on a sweater, the symphysical field of this name is the sweater itself. If it were not physically connected to the sweater, the name would lose its semantic function.

Also in the case of normative road signs, normative drawing and symphysical field are “materially connected” by a metal rod that acts as a material support of the deontic drawing and is inserted into the ground. The symphysical field of a normative road sign is the area

23 Olivecrona (1942, p. 24).

24 On norms in place, see Lorini & Loddo (2017, pp. 205-209).

25 On the deicticity of road signs, see Lorini & Loddo (2017) and Stjernfeld (2019). On the deictic function of material signs and on their symphysical field, see Mulligan (1997).

26 Bühler (1934, p. 159; Engl. trans. pp. 179-180).

27 Bühler (1934, p. 161; Engl. trans. p. 182).

crossed by the road in which it is driven into the ground. One could therefore say that normative road signs are, borrowing the expression of Edmund Husserl in *Erfahrung und Urteil* (Experience and judgment)²⁸, “embodied norms” (from German: *verkörpert*), as they are embodied in a material substrate: they are “corporeal norms”.²⁹ These norms presuppose a physical support, although they do not coincide with it (they do not exhaust themselves in it).³⁰ Within its symphyical field, every normative road sign refers to a specific spatial portion that it deontically connotes. In the essay *Thinking of norms spatially*, Olimpia G. Loddo and I have called this spatial portion on which the corporeal norm performs its deontic function “spatial sphere of reference of a norm”.³¹ In the case of deontic road signs, the spatial sphere is determined by the *origo* of the corporeal norm, that is by the place where the road sign is attached, together with other elements connected to the highway code: for example, the direction one is driving in, the lane one is travelling in, the right side of the road (for countries in which they drive on the right), the presence of other road signs that interrupt the norm’s spatial sphere of reference.

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28 See Husserl (1948, pp. 317-325).

29 These norms are *res corporales* in the lexicon of the Roman jurist Gaius. See Gaius (1904).

30 See the concept of “idionomic norm” proposed by Lorini (2011, pp. 1973-1974).

31 Lorini & Loddo (2017, pp. 203-205). In this essay, starting from Hans Kelsen’s famous concept of “spatial sphere of validity” (in German: *räumlicher Geltungsbereich*) of a norm, Loddo and I distinguished two different kinds of “spatial spheres of norms”: a spatial sphere of *validity* and a spatial sphere of *reference*.

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