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## Metanormativna načela i normama vođeno društveno međudjelovanje

Kritičko čitanje Alchourrónove i Bulyginove skupovnoteorijske definicije normativnoga sustava pokazuje da njegova deduktivna zatvorenost nije neizbjegno svojstvo. Slijedeći von Wrightovu pretpostavku da aksiomi standardne deontične logike opisuju svojstva savršenoga normativnog sustava, uvođi se algoritam za provođenje iz modalnoga u skupovnoteorijski jezik. Prijevod nam otkriva da plauzibilnost pojedinih metanormativnih načela leži na različitim osnovama. Koristeći se metodološkim pristupom koji prepoznaje različite aktere u normama upravljanome međudjelovanju, pokazuje se da su metanormativna načela obvezne drugoga reda upućene različitim ulogama. Poseban slučaj jest zahtjev koji se odnosi na deduktivnu zatvorenost jer se pokazuje da je upućen ulozi koja primjenjuje, a ne onoj koja izdaje norme. Pristup je primijenjen i na slučaj čiste derogacije, što dovodi do novoga rezultata; svojstvo neovisnosti biva svojstvom savršenoga normativnog sustava u odnosu na moguću derogaciju. Ovaj članak na polemički način dodiruje nekoliko točaka iznesenih u Kristanovome nedavnom članku.

**Ključne riječi:** normativni sustav, standardna deontična logika, metanormativna načela, derogacija, G. H. von Wright

### 1 NORMATIVNI SUSTAV KAO SUSTAV NORMI

U svome je nedavnom radu o razrješenju normativnih sukoba Andrej Kristan (2014) prihvatio teorijski pristup normativnosti uveden u Alchourrón i Bulygin (1998). Prema skupovnoteorijskome pristupu iznesenome u Alchourrón i Bulygin (1998), bilo koja rečenica *p* koja opisuje izvediva stanja stvari jest normativna rečenica: obavezna ako *p* pripada skupu logičkih posljedica 'eksplicitno zapovjedenih propozicija', dopuštena ako njezin nijek *-p* ne pripada skupu te zabranjena ako nije dopuštena.<sup>1</sup> Metafora preskriptivne uporabe jezika jest ona smještanja čega u spremnik (propozicije u normativni sustav), no metafora se ne bi smjela prepregnuti s obzirom da skupovi, za razliku od spremnika, ne-

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1 Termin 'izvediva stanja stvari' preuzet je iz von Wright (1999) i označava 'stanja stvari koja mogu nastupiti kao rezultat ljudskoga djelovanja'.

maju identiteta osim onoga koji im je zadan njihovim članstvom. Iz toga slijedi da dodavanje novih rečenica u postojeći normativni sustav stvara novi skup.

Širok je raspon obilježja koja skup propozicija može imati te postoje dva načina na koja ih se može definirati: deskriptivno (opisujući) i preskriptivno (propisujući). Kristan, slijedeći Alchourróna i Bulygina, definira normativni sustav N na deskriptivan način kao skup logičkih posljedica eksplisitno zapovjeđenih propozicija:  $A: N = Cn(A)$ . Međutim, u ovoj se definiciji javlja nekoliko problema koje će trebati razriješiti.

### 1.1 Konzistentnost i deduktivna zatvorenost

U klasičnoj je logici skup rečenica T deduktivno zatvoren samo ako je moguće konzistentno dodati nijek bilo koje rečenice koja nije član skupa u izvorni skup.<sup>2</sup> Ova je činjenica simbolički prikazana formulom (1.1).<sup>3</sup>

$$T = Cn(T) \text{ akko } \pm i Cn(T \cup \{-p\}) \text{ za svaki } p \not\in T \quad (1.1)$$

Pojmove je slijeda i konzistentnosti moguće definirati jedan drugim i oba se odnose na poželjna svojstva skupa. Postoji li razlog da se deduktivna zatvorenost promatra kao fundamentalno svojstvo u odnosu na konzistentnost? U ovome članku pokušat će se pokazati da takav odnos prednosti jednoga svojstva pred drugim ne postoji. U analizi polazimo od skupa sadržaja eksplisitnih zapovijedi lišenog svih inherentnih logičkih svojstava, čiji je nastanak empirijska činjenica ostvarena jezičnom uporabom.<sup>4</sup>

**Primjer 1.** Goble (2009: 484-485) i Broome (2013: 121-122) razilaze se kod pitanja mora li normativni sustav koji sadrži eksplisitno zapovjeđenu propoziciju (i) 'Ne smije se kampirati na javnim cestama ni u koje doba' također uključivati i propoziciju (ii) 'Ne smije se kampirati na javnim cestama četvrtkom navečer'. Samo ako je normativni sustav definiran kao skup svih logičkih posljedica eksplisitnih zapovijedi, odgovor na pitanje mora biti potvrđan, no protiv takve definicije postoje uvjerljivi razlozi, kako Broome i pokazuje. S dru-

2 Slijeva nadesno, pretpostavimo u svrhu *reductio ad absurdum* da je nijek nečlana skupa nemoguće konzistentno dodati u deduktivno zatvoren skup. Ako je tomu tako, onda je nečlan skupa posljedica toga skupa, što je nemoguće s obzirom da je skup deduktivno zatvoren. Zdesna na lijevo, pretpostavimo također u svrhu *reductio ad absurdum* da je proizvoljna rečenica posljedica skupa, no nije ujedno i njegov član. Ako je tako, nijek rečenice može se konzistentno dodati tome skupu, što je pak nemoguće ako je rečenica posljedica skupa.

3 Formula  $\pm e X$  kaže da je *falsum*  $\pm$  element skupa  $X$  ili drugim riječima, da je  $X$  inkonzistentan. Nijek prethodne formule glasi  $\pm i X$  i njime se tvrdi da je skup  $X$  konzistentan.

4 U Broomeovojoj teoriji zahtjeva (Broome 2013) kodeks ispostavlja skup propozicija zatvorenih pod kongruencijom, što znači da ako propozicija pripada skupu, pripada mu i svaka druga njoj ekvivalentna. Pristup u ovome članku apstrahuje od svih svojstava skupova uključujući i kongruenciju.

ge strane, kako primjećuje Goble, odnos se između (i) i (ii) tiče "zaključivanja s treba-izjavama". Pokušat ćemo pokazati da su oba iznesena stajališta ispravna.

## 1.2 Savršena svojstva i skupovi normi

Nastavljujući se na von Wrightov pravac razmišljanja, pokazat ćemo da se deduktivna zatvorenost može razumjeti kao jedno od više savršenih svojstava skupa:

[...] klasična deontična logika u deskriptivnoj interpretaciji svojih formula prikazuje sustav normi liшен praznina i proturječja. Činjenični normativni poretki *mogu* imati ta svojstva te se može smatrati poželjnim da ih *trebaju* imati. No može li biti *logička istina* da normativni poredak ima ("mora imati") ta "savršena" svojstva? (von Wright, 1999: 32)

Standardna ili klasična KD deontična logika prihvata mogućnost uzajamnoga definiranja modalnih operatora obligacije **O**, prohibicije **F** i permisije **P**, kao što je iskazano u (Def.) i grafički prikazano na slici 1.<sup>5</sup> KD deontična logika proširuje propozicijsku logiku pravilom necesitacije (RN) i aksiomskim shema-ma (K) i (D).

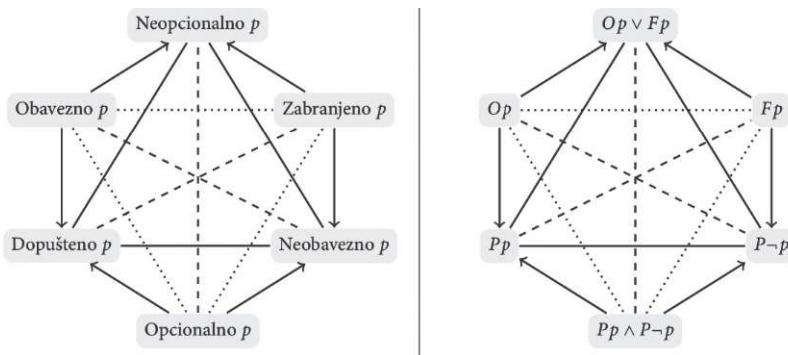
$$Pp \text{ akko } \neg O-p \text{ akko } \neg Fp. \quad (\text{Def.})$$

$$\text{Ako } h p, \text{ onda } h Op. \quad (\text{RN})$$

$$O(p * q) * (Op * Oq) \quad (\text{K})$$

$$Op * Pp \quad (\text{D})$$

**Slika 1:** Šesterokut logičkih odnosa koji su na snazi u standardnoj KD deontičnoj logici. Točkasta crta predstavlja odnos suprotnosti, isprekidana proturječje, puna crta podsuprotnost, a strelice predstavljaju podređenost (implikaciju). Deontični su pojmovi iskazani u prirodnome jeziku u lijevome šesterokutu dok onaj desni donosi odgovarajuće formule.



5 Wolenski (2008) nudi opći prikaz kvadrata, šesterokuta i osmerokuta logičkih odnosa zajedno s njihovim primjenama u različitim područjima filozofske analize.

### 1.2.1 Prevodenje modalnoga u skupovnoteorijski jezik

U Žarnić (2010) definiran je prijevod iz jezika standardne deontične logike bez opetovanih operatora i dokazano je da prevedeni uvjeti standardne deontične logike opisuju "praznina lišen", deduktivno zatvoren i konzistentan tip skupa normi  $A^*$ . Naši su osnovni prijevodi slični onima u Alchourrón i Bulygin (1998), s razlikom u *definientia* gdje je 'članstvo u  $Cn(A^*)$ ' sad zamijenjeno 'članstvom u (moguće deduktivno otvorenome) skupu normi  $A^*$ '. 'p e AT za 'Op',  $p \notin A^*$  za 'Pp, '-p e A\*' za 'Fp'. Ukratko, veza je između skupovnoteorijskoga pojma skupa normi i modalnoga pojma obligacije dana u obliku jednostavne jednadžbe:  $A^* = \{p \mid Op\}$ . Važe sljedeće korespondencije:

1. Iz prijevoda načela (Def.) o uzajamnoj definiciji deontičnih pojmoveva slijedi da je bilo koji skup normi bez praznina (potpun),  $Pp \vee O-p$ , što čini svako izvedivo stanje stvari dopuštenim ili zabranjenim. Kad se prevede u skupovnoteorijski jezik, definicija (Def.) izražava logičku istinu:  $\neg p \notin A^* \text{ ili } p \in M$ .<sup>6</sup>

2. Prijevod pravila necesitacije (RN) daje tvrdnju da su logičke istine uključene u skup normi,  $Cn(0) \subseteq A^*$ , dok prijevod aksiomske sheme (K) zahtijeva zatvaranje pod *modus ponens*: *Ako p q e M*  
no ova su dva uvjeta ispunjena akko je skup normi deduktivno zatvoren:  $N = Cn(M)$ .

3. Prijevod aksiomske sheme (D) daje *Ako p e M, onda  $\neg p \notin M$* . Ovaj je uvjet ispunjen ako je skup normi lišen proturječja, tj. ako je konzistentan:  $_L \subseteq Cn(A^*)$ .

Deskriptivno promatrajući, empirijski je očito da je oprimjerjenje bilo kojega od ovih svojstava kontingentne naravi. Normativno promatrajući, potrebna su nam metanormativna načela ili intuicije kako bismo procijenili treba li neko svojstvo biti prisutno u skupu normi.

### 1.2.2 Mogućnost stvaranja sustava normi promulgacijom normi

Po samoj je definiciji teorija Tdeduktivno zatvoren skup ili simbolički:  $T = Cn(T)$ . Bilo koji deduktivno zatvoren skup Tbeskonačan je zahvaljujući uključenosti logičkih istina, čiji broj nije konačan ili simbolički:  $Cn(0) \subseteq T \mid |N| < |Cn(0)|$ . Posljedično, pristajanje uz definiciju normativnoga sustava kao skupa zapovjedениh sadržaja nosi sa sobom ontološku obvezu na tvrdnju da postoje beskonačni predmeti, s obzirom da su normativni sustavi beskonačni skupovi, kao i epistemološku obvezu na istraživanje njihove spoznatljivosti. Ako se logičke istine oduzmu od skupa posljedica  $Cn^*(T) = Cn(T) - Cn(0)$ , nastali skup  $Cn^*(T)$  uz T sadržavat će samo relevantne posljedice skupa T, tj. one elemente čija dedukcija počiva na sadržajima iz T.

6 Ovaj se uvjet može napisati i u svojemu općem obliku kao  $p \notin N$  ili  $p \in M$ .

**Primjer 2.** Zamislimo da je normativni sustav M. stvoren jednom jedinom zapovijedi 'Zabranjeno je činiti da nešto bude slučaj onomu tko želi da to nešto ne bude slučaj' upućen jednomu jedinom akteru  $i$ .<sup>7</sup> Može li akter  $i$  postati svjetan svake pojedine norme iz skupa  $Cn^*(M)$ ? Modalnologički prijevod izražava uvjetnu prohibiciju 'Akteru je zabranjeno činiti da bude slučaj nešto ( $\mathbf{F}_i:\text{st}it\ p$ ) za što želi da to nešto ne bude slučaj ( $D_i-p$ )' ili simbolički: (1.2). U skup ovnoteorijskome pristupu deontični operator zamijenjen je odnosom članstva između sadržaja zapovijedi i njegovoga skupa normi. Sadržaj zapovijedi glasi Ako akter  $i$  želi da - $p$ , onda  $i$  ne čini da  $p$  bude slučaj' ili simbolički: (1.3). Sadržaj opisuje kako izgleda povinovanje normi i stoga pripada jednočlanome skupu normi M., ili simbolički: (1.4).<sup>8</sup>

$$D_i-p \wedge \mathbf{F}_i:\text{st}it\ p \quad (1.2)$$

$$D_i-p \wedge \neg i:\text{st}it\ p \quad (1.3)$$

$$\#D_i-p \wedge \neg i:\text{st}it\ p^n \in M \quad (1.4)$$

Ako se varijabla  $p$  odnosi na rečenice beskonačnoga jezika  $\mathcal{L}$ , pruža se beskonačno mnogo rečenica koje mogu zamijeniti  $p$  u (1.4). Dakle, broj će rečenica u skupu  $Cn^*(M)$  biti beskonačan.

Očito je da ni jedan normativni izvor ne može dovršiti sintaktičko stvaranje beskonačnoga skupa sadržaja zapovijedi. Je li nužno prepostaviti postojanje logičkih predmeta kao što su beskonačni, deduktivno zatvoreni skupovi? Dodatni se problem u vezi deduktivne zatvorenosti javlja s logičke strane: je li odnos posljedice koji se nalazi u definiciji teorije identičan odnosu posljedice koji definira deduktivnu zatvorenost skupa normi? Postavka o postojanju *sui generis* odnosa posljedice u imperativnoj jezičnoj uporabi (Žarnić 2011: 95) podupire odbacivanje redukcije odnosa posljedice u skupu normi na 'logiku pokoravanja' u indikativnome jeziku, baš kao što je Hans Kelsen tvrdio (Kelsen 1973: 254).

Ontološko se obvezivanje na postojanje beskonačnih skupova normi ili logičko obvezivanje na redukciju imperativne logike na indikativnu dade lako izbjegći usvajanjem definicije skupa normi tek kao skupa sadržaja eksplicitnih zapovijedi, s jedne strane i postavkom da je deduktivna zatvorenost skupa normi pod nekom logikom kontingenntno svojstvo, s druge strane.

7 Ovaj se normativni sustav može protumačiti kao utemeljen na Nietzscheovoj maksimi "Budi ono što jesi!".

8 'Quineovi navodnici' koriste se za oblikovanje imena nekoga izraza. Mogu se ispustiti ako ne postoji mogućnost zabune imena izraza za izraz, no u slučajevima gdje se ista formula i koristi i spominje, Quineovi će se navodnici koristiti.

### 1.3 Metanormativna načela

Von Wright (1999) uvodi pojam "normativnih zahtjeva za normativne sustave" ili pojam 'metanormativnoga načela', kako će odsad nadalje biti zvano:

[drugi način] ... jest promatrati same ideje potpunosti i lišenosti proturječja kao *normativne* ideje, kao normativne zahtjeve za normativne sustave. Moglo bi se nazvati *meta-normativnim* načelima. One su norme *višega reda*. (von Wright 1999: 33)

Na prvi pogled, čini se mogućim shvatiti metanormativna načela kao tvrdnje o tome da skup normi treba imati određeno svojstvo te izraziti te tvrdnje u formalnome jeziku uvođenjem ugniježđenih KD modaliteta. U svrhu analize metanormativnih načela, izražajna će moći formalnoga jezika biti obogaćena uvođenjem S5 aletičnih modaliteta nužnosti • i mogućnosti 0.<sup>9</sup> Aletični se modaliteti mogu protumačiti na različite načine; kao logičke, nomološke ili historijske mogućnosti.<sup>10</sup> Pojmovi su poredani po inkluziji: historijska je mogućnost nomološka mogućnost, a nomološka je mogućnost logička.

Sljedeći popis sadrži neka *prima facie* plauzibilna metanormativna načela, označena njihovim dolje ponuđenim formalnim prijevodima:

- Skup normi treba biti bez praznina: (O.def).
- Skup normi treba biti deduktivno zatvoren: (O.RN) zajedno s (O.K).<sup>11</sup>
- Skup normi treba biti konzistentan: (O.D).
- Skup normi treba biti ostvariv: (O.OO).<sup>12</sup>
- Skup normi treba biti ostvaren: (O.T).

Sljedeći su formalni modalni izrazi dobiveni uporabom novoga simbola O za obligaciju drugoga reda:

$\vee O \cdot p$	(O.def)
$* O \cdot p$	(O.RN)
$p * q) * (Op * Oq)$	(O.K)
$* Pp$	(O.D)
$* op$	(O.OO)
$* p$	(O.T)

9 S5 logika može se aksiomatizirati pravilom necesitacije: Ako I- p, onda I- Dp , aksiomskim shemama: (K) a(p • q) • (Dp • Dq), (T) Dp • p, (4) Dp • ddp, (5) •p • aOp, i definicijom: •p ^ -d-p.

10 Logička je mogućnost svijet u kojem vrijede zakoni logike, nomološka mogućnost svijet u kojem vrijede logički i prirodni zakoni, a historijska mogućnost je nomološka mogućnost koja leži u budućnosti druge nomološke mogućnosti.

11 Ako se modalitet • tumači kao logička nužnost, onda metanačelo kaže da zadani skup normi treba uključivati sve logičke istine.

12 Modalitet • može se u ostatku teksta tumačiti kao historijska mogućnost.

Budući da je u skupovnoteorijskom pristupu moguće ponuditi samo prijevode prvoga reda, on se mora proširiti kako bi mogao iskazati i metanormativne izraze. Jedno od rješenja koje se nameće jest postupiti s metanormativnim izrazima kao tvrdnjama da zadani skup normi pripada određenoj klasi tipova skupova normi. Prijevod za obligaciju prvoga reda *Op* jest '*p* je član skupa normi *A*', tj. *p* ∈ *M*. Gotovo analogno tomu, izgleda da izjava 'svojstvo *p* jest savršeno svojstvo' i njezina ekstenzionalna reformulacija 'skup skupova normi koje ispunjavaju uvjet *p* član je savršenoga skupa' pružaju dostupan prijevod za tvrdnju o obligaciji drugoga reda *Op*. Nazovimo Savršenim skup skupova onih skupova normi koji dijele određena savršena svojstva. Reći da je svojstvo *p* skupova normi savršeno svojstvo ne znači drugo doli reći da 'skup skupova normi koji ispunjavaju uvjet *p* jest element Savršenoga' ili simbolički, '{Af \ M ispunjava uvjet *p*} ∈ Savršeno'.

**Primjedba 3.** Ako se prihvati Gödelova pretpostavka kako svojstvo drugoga reda bivanja pozitivnim svojstvom stvara ultrafilter, onda skup skupova normi koji imaju sva savršena svojstva mora biti neprazan. Nazovimo ga Idealnim. Neka *a* bude skup skupova normi koje imaju određeno savršeno svojstvo. Onda izraz '*a* ∈ Savršeno' znači isto što i 'Idealno *f* a'. Ultrafilter zadanoga skupa jest skup njegovih podskupova zatvorenih pod presjekom i odnosom nadskupa, pri čemu prazan skup nije njegov element i za bilo koji skup vrijedi da je ili on sam, ili njegov komplement član ultrafiltra.<sup>13</sup>

**Primjedba 4.** Može li skup normi imati svojstvo da svako izvedivo stanje stvari čini obvezujućim ili zabranjenim? Nazovimo ovo svojstvo *svojstvom neopcjonalnosti* s obzirom na to da ne ostavlja mjesta za opcionalne radnje i suzdržavanje od djelovanja. Ako je normativni sustav zamišljen kao proizašao dedukcijom iz skupa normi, onda valja zapaziti da Gödelov poučak nepotpunosti implicira neispunjivost tog uvjeta; *p* ∈ *Cn(N)* ∨ -*p* ∈ *Cn(M)* za svaki skup normi formuliran u jeziku dovoljno bogatom da iskaže vlastitu sintaksu (primjerice, prirodni jezik). Budući da ni jedan normativni sustav ne može ispuniti ovaj zahtjev, svojstvo neopcjonalnosti ne može unutar gödelovske ontologije pozitivnih svojstava biti savršeno svojstvo.

Dalje nastavljamo s algoritmom prevodenja za formule u kojima opetovani deontični modaliteti istoga tipa nisu dopušteni, no dopušteno je da se deontični modaliteti prvoga reda pojavljuju unutar dosega onih drugoga reda.

**Definicija 5.** Neka  $\mathcal{L}_{\text{api}}$  bude jezik aletične modalne logike. Funkcija  $T^1$  prenosi formule s deontičnim modalitetima prvoga reda:

$$T^1(p) = p \text{ ako } p \in \text{COPI}$$

$$T^1(Op) = {}^r T^1(p)^{r_1} \in N$$

13 Za uvid u Gödelovu ontologiju svojstava vidi Kovač (2003).

$$T^1(Pp) = {}^r T^1 ("p)"^1 \ i N$$

$$T^1(-p) = -T^1 (p)$$

$$T^1((p \bullet q)) = (T^1 (p) \bullet T^1(q))$$

**Definicija 6.** Funkcija  $T^2$  prevodi one formule čiji je glavni operator deontični modalitet drugoga reda:

$$T^2 (Op) = \{N \mid T^1(p)\} \in \text{Savršeno}$$

$$T^2(Pp) = \{N \mid -T^1(p)\} \ i \text{ Savršeno}$$

**Primjer 7.** Neka  $p$  bude rečenica bez pojave modaliteta prvoga ili drugoga reda:

$$\begin{aligned} T^2(O(Op \bullet Op)) &= \{Af \mid T^1(Op \bullet Op)\} \in \text{Savršeno} \\ &= \{N \mid T^1(Op) \bullet T^1(Op)\} \in \text{Savršeno} \\ &= \{\mathbf{A}^n \mid T^1(p) \in N \bullet Op\} \in \text{Savršeno} \\ &= \{M \mid {}^r p^n \in \mathbf{A}^n \bullet Op\} \in \text{Savršeno} \end{aligned}$$

Prijevod za uvjet ( $O.OO$ ) kaže da je zahtijevanje samo onoga što je moguće savršeno svojstvo skupa normi.

**Primjer 8.** Prijevod za uvjet ( $O.T$ ) mnogo je manje plauzibilan.

$$T^2(O(Op \bullet p)) = \{N \mid {}^r p^n \in M \bullet p\} \in \text{Savršeno}$$

Ovo nam govori kako je zahtijevanje samo onoga što je slučaj savršeno svojstvo skupova normi, ali to očito nije željena interpretacija za načelo da *skup normi treba biti ostvaren*.

Nejednaka plauzibilnost prijevoda u primjerima (7) i (8) pokazuje da obligacije drugoga reda označene homonimnim izrazom — 'treba biti' u 'skup normi treba biti ostvariv' i u 'skup normi treba biti ostvaren' — ne pripadaju istoj kategoriji.

### 1.3.1 Načelo rimskoga prava kao norma za davatelja normi

Cilj nam je povući pojmovnu distinkciju između tipova obligacija drugoga reda s obzirom na uloge aktera uključenih u promulgaciju (proglašenje), realizaciju (ostvarivanje) i aplikaciju (primjenu) normi. Obratimo prvo pozornost na prvi tip, točnije normativni kontekst promulgacije normi, odnosno obligacije za davatelja normi. Takozvano 'Načelo rimskoga prava' zabranjuje davatelju normi da zahtijeva neizvedive radnje s obzirom na to da nitko ne može biti obvezan učiniti nemoguće. Pokazat će se kako je sa stajališta standardne deontične

logike uporaba termina 'načelo' neopravdana zbog toga što će 'Načelo rimskoga prava' biti zadovoljeno normativnim sustavom čije norme konzistentno izabiru samo ono što je moguće.

Sadržaj **Op — Op** metanormativnoga načela (O.OO) odigrao je važnu ulogu u teoriji normativnosti. Aristotelova tvrdnja da u promišljanju "Ako se ljudi susretnu s nemogućim, oni odustaju" (Aristotel, *Nikomahova etika*, 1112b) može se razumjeti kao protupostavna formulacija srodnoga načela. U metanonormativnom tumačenju aristotelovsko načelo promišljanja iskazuje da ono nemoguće ne smije biti sadržaj namjere. Bliže načelu (O.OO) jest načelo iz rimskoga prava *ultra posse nemo obligatur* (*ad impossibilia nemo tenetur, impossibilium nulla obligatio*), samo po sebi prethodnik načela da '*treba*' implicira '*može*' koje je Kant formulirao i za koje se čini da **Op — Op** daje izravan prijevod.<sup>14</sup> Ipak, logika se akterove sposobnosti djelovanja razlikuje od logike aletične mogućnosti. Neki teoremi aletične logike ne vrijede u logici sposobnosti djelovanja. Primjerice, postavka da *Ako je nešto slučaj, onda je to moguće, p — Op*, valjana je u aletičnoj logici, no njezin parnjak u logici sposobnosti djelovanja nije: postavka *Ako je nešto učinjeno, onda to može biti učinjeno* ne važi u logici sposobnosti djelovanja.<sup>15</sup> Metanormativno načelo s aletičnim modalitetom predstavlja popoćavanje ovih načela: što god je zabranjeno zbog aletične nemogućnosti, također je zabranjeno i načelom da '*treba*' implicira '*može*', no obratno ne vrijedi.

Terminološki govoreći, uporaba termina 'načelo' nije ispravna u kontekstu načela (O.D) i (O.RN) s obzirom na to da je **Op — Op** poučak koji slijedi iz •**p — Op** u konjunkciji s **Op — Pp**, tj. iz sadržaja (O.D) i (O.RN). U prilog ovoj činjenici bit će dana dva stilom različita dokaza.

#### **Poučak 9. $\text{Op} — \text{Op} \in \text{Cn}(\{\text{D } p — \text{Op}, \text{Op} — \text{Pp}\})$**

*Dokaz.* Izvedimo prvo dokaz dedukcijom koji se oslanja na sintaksu jezika. Iz **mp — Op** te definicija deontičnih i aletičnih modaliteta dobivamo korolarij: *Ako je dopušteno da neko stanje stvari bude slučaj, onda je moguće da ono bude slučaj, Pp — Op*. Pretpostavimo da je **p** obvezatno, **Op**. Onda je **p** dopušteno, **Pp**, u skladu s aksiomom D. Iz korolarija slijedi da je **p** moguće, **Op**. Stoga, ako je stanje stvari obvezatno, onda je ono moguće, **Op — Op**. Q.E.D.

*Dokaz.* Kao drugo, ponudimo dokaz u semantičkim terminima! Osnovna semantička ideja modalne logike jest da je istinitosna vrijednost formule u točki vrednovanja ovisna o istinitosnim vrijednostima formule u drugim točkama vrednovanja dostupnima putem odgovarajućega odnosa. Deontični odnos

14 Brojni su odlomci iz Kantovih djela koji se bave ovim načelom. Primjerice, u *Religiji unutar granica čistoga uma* (1793) dana je sažeta formulacija u obliku "dužnost ne zapovijeda ništa osim onoga što možemo učiniti" (Kant: 68).

15 Izabiranje kraljice srca iz špila karata ne implicira sposobnost da se to i učini; vidi Brown (1992).

dostupnosti,  $Dwv$ , povezuje svijet  $w$  s njegovim normativnim alternativama  $v$  u kojima je skup normi ostvaren,  $M \in v$  za sve  $v \in \{v \mid Dwv\}$ . Slično tomu, aletični odnos dostupnosti protumačen kao recimo nomološka mogućnost,  $Nwv$ , povezuje svijet  $w$  bilo s kojom od njegovih alternativa  $v$  u kojima vrijede logički i prirodni zakoni. Za neke je modalne formule (Sahlqvistove formule) moguće izračunati odgovarajuće svojstvo prvoga reda odnosa dostupnosti koristeći se Sahlqvist-van Benthemovim algoritmom.<sup>16</sup> Poznato je da  $Op = Pp$  karakterizira svojstvo serijalnosti deontičnoga odnosa,  $Vx3y Dxy$ . Kao što je prethodno rečeno, to znači da je zadani skup normi konzistentan. Koristeći se algoritmom, moguće je izračunati sljedeća međuodnosna svojstva:

- $Op = Op$  karakterizira  $Vx3y (Dxy \wedge Nxy)$  međuodnosno svojstvo. Može ga se nazvati 'svojstvom konvergirajuće serijalnosti odnosnoga para' i ono kaže da uvijek postoji deontički dostupna situacija koja je također i nomološki moguća. Ili da se poslužimo metaforom profesora Segerberga, *nema tragičnih dilema* (Segerberg, 2003). Skup normi koji oprimjeruje ovo svojstvo pruža moguć i zakonit izlaz iz bilo koje situacije.
- $\bullet p = Op$  karakterizira podređenost deontičnoga odnosa nomološkome  $VxVy(Dxy = Nxy)$ . Skup normi može se ostvariti samo u nomološki mogućim situacijama: ako postoji zakonit izlaz iz situacije, on je također i moguć izlaz.<sup>17</sup>

Lako je uvidjeti da ako je deontični odnos serijalan i podređen nomološkome, on uvijek mora s njim konvergirati u nekoj točki, točki u kojoj su norme ostvarene u nomološki mogućemu svijetu.<sup>18</sup> Stoga, 'treba' implicira 'može' nije samoopravdavajuće načelo, već posljedica drugih načela. Q.E.D.

## 2 NORME I DRUŠTVENO MEĐUDJELOVANJE

U komunikaciji se obično prepoznaju dvije akterske uloge: uloga pošiljatelja i uloga primatelja poruke, no u normama vođenome društvenom međudjelovanju, osim uloga izdavatelja normi i podložnika normama postoji i dodatna uloga, ona primjenitelja normi. Komunikacija je vrsta čina, a to prema Parsonsovom

16 Van Benthem definira skup formula algoritamski prevodivih u njihove ekvivalente prvoga reda u sljedećem počku: "Poučak 19. Postoji efektivan algoritam koji prevodi sve modalne aksiome oblika  $A \rightarrow B$  u odgovarajuća svojstva prvoga reda, gdje je  $A$  sastavljen od osnovnih formula  $\bullet \quad \bullet$   $Dp$  koristeći se samo  $A, V, 0, B$ , je 'pozitivno': sastavljen od propozicijskih slova samo pomoću  $A, V, 0, \bullet$ " (van Benthem 2010: 106).

17 Ilustracije radi upotrijebimo Sahlqvist-van Benthemov algoritam za određivanje korespondencija. Započinjemo s (i)  $Dp = Op$  i primjenjujemo standardni prijevod u dva koraka: (ii)  $VP \circ STx(dp = Op)$ ; (iii)  $VP(Vy(R_{Nxy} = Py) = Vy(R_{Oxy} = Py))$ . Potom određujemo minimalno vrednovanje (iv)  $Pu := R_{Nxy}$  i izvodimo supstituciju: (v)  $Vy(R_{Nxy} = R_{Nxy}) = Vy(R_{Oxy} = R_{Nxy})$ . Pojednostavljenjem dobivamo (vi)  $T = Vy(R_{Oxy} = R_{Nxy})$  i konačno (vii)  $VxVy(R_{Oxy} = R_{Nxy})$ .

18 Formula  $(Vx3y Dxy \wedge VxVy(Dxy = Nxy)) = Vx3y(Dxy \wedge Nxy)$  jest logička istina prvoga reda.

definiciji znači da pošiljatelj poruke ima neki cilj u situaciji čiji su uvjeti i sredstva podređeni normativnim zahtjevima.<sup>19</sup> Posljednji uvjet u Parsonsovoj definiciji djelovanja upozorava na njegovu normativnu dimenziju. Slično tomu, Habermas izjednačava *društveni svijet s normativnim kontekstom*.<sup>20</sup> Djelovanja koje se odnose na norme (proglašenje, pokoravanje, primjena) kao djelovanja i kao društvene činjenice moraju imati svoje vlastite normativne kontekste koji su, u skladu s našom prepostavkom, eksplizirani u njihovim metanormativnim načelima.

## 2.1 Normativni konteksti s normama odnosnih djelovanja

Kao što je gore navedeno, u normama vođenome međudjelovanju postoje tri aktera: uloga izdavatelja normi, ona podložnika normama i ona primjenitelja normi; tako postoje i tri tipa djelovanja koja se odnose na norme: promulgacija normi, normama upravljanje djelovanje i na normama zasnovano prosuđivanje. U ovoj vrsti međudjelovanja izdavatelj normi njihovom promulgacijom upravlja djelovanjima podložnika normama, o čijemu pokoravanju njima prosuđuje primjenitelj normi.

Prvo se okrećemo normativnom kontekstu radnje promulgacije normi. Prema našemu tumačenju, jezik KD logike jest deskriptivan jezik čiji aksiomi opisuju svojstva skupova normi: aksiom K definira posljedičnost, a aksiom D definira konzistentnost. Ako je promulgacija skupa normi djelovanje (u Parsonsovome smislu) ili društvena činjenica (u Habermasovome smislu), onda barem jedno od njegovih svojstva jest ili dopušteno, ili zabranjeno. Naprimjer, ako se ne smatra poželjnim da promulgirani skup normi bude inkonzistentan, onda poželjnost svojstva konzistentnosti utemeljuje normativni kontekst za promulgaciju normi. Ovo se poželjno svojstvo može protumačiti kao obligacija drugoga reda i može se izraziti tvrdnjom da skup normi treba biti konzistentan, kao što je iskazano u (O.D) gore. Što se tiče pitanja je li poželjno da skup normi sadrži sve svoje deduktivne posljedice, čini se da je niječan odgovor neizbjegjan jer proizvođenje beskonačnoga teksta nije izvedivo djelovanje. Stoga poželjnost

19 Parsonsova definicija čina: "...'čin' uključuje logički sljedeće: (1) Podrazumijeva činitelja, 'aktera.' (2) U svrhu definicije čin mora imati 'cilj,' buduće stanje stvari prema kojem je process djelovanja usmjeren. (3) Mora započeti u 'situaciji' čiji se razvojni smjerovi razlikuju u jednome ili više pogleda od stanja stvari kojemu je djelovanje usmjeren, tj. cilja. Ovu je pak situaciju moguće analizirati na dvije skupine elemenata: one nad kojima akter nema kontrole, tj. one koje ne može u skladu sa svojim ciljem izmjeniti ili sprječiti da budu izmijenjeni, te one nad kojima ima kontrolu. Prvospomenuti se elementi mogu nazvati 'okolnostima' djelovanja, a drugospomenuti 'sredstvima.' Konačno, (4) inherentan je poimanju ovoga jedinstva, u njegovoj analitičkoj uporabi, određeni način povezanosti između ovih elemenata. To znači da u izboru alternativnih sredstava za neki cilj, u mjeri u kojoj situacija dopušta alternative, postoji 'normativno usmjeravanje 'čina' (Parson, 1937: 44).

20 Habermas piše: "Društveni se svijet sastoji u normativnom kontekstu koji nalaze koja međudjelovanja pripadaju cjeloukupnosti zakonitih međusobnih odnosa" (Haberma, 1984: 88).

konzistentnosti pripada kategoriji različitoj od poželjnosti posljedičnosti ili deduktivne zatvorenosti.

Drugo, istražimo normativni kontekst pokoravanja normama. Poseban se tip poželjnosti javlja u metanormativnoj postavci (O.T), postavci koja se može plauzibilno protumačiti kao *Pokoravanje je normama poželjno, Dužnost se mora ispuniti, Norme se trebaju ostvariti itd.*<sup>21</sup> Kao što je gore primjećeno, nije međutim plauzibilno tumačiti ovu postavku kao tvrdnju o poželjnome svojstvu skupa normi s obzirom na to da tvrdnja *Poželjno je da norme zahtijevaju samo ono što je slučaj* završava u svojevrsnome normativnom kolapsu. Postavku prije treba razumjeti kao načelo pokoravanja s obzirom na to da pokazuje kako je norma ono čemu se treba pokoriti. Iz ove perspektive gledano, postoji važna razlika između dviju metanormi: za razliku od izdavatelja normi, podložnik normama nema obveza koje se tiču svojstava skupova normi, a za razliku od podložnika normama, izdavatelj normi nema obveza koje se tiču pokoravanja njima.

Treće, pozabavimo se normativnim kontekstom primjene normi. Primjenitelj normi ili sudac odlučuje o deontičnome statusu stanja stvari uspostavljenoga djelovanjem podložnika normama. Pretpostavimo da je podložnik uspostavio stanje da  $p$ . Primjenitelj normi treba odrediti deontični status  $p$  s obzirom na neki skup normi  $J \setminus f$ , a to može učiniti dvjema logički ekvivalentnim metodama: bilo dodavanjem  $p$  u  $N$  i provjeravanjem konzistentnosti proširenoga skupa  $M \cup \{p\}$ , bilo ispitivanjem je li  $\neg p$  posljedica skupa  $N$ . Prema prvoj metodi, ako  $M \cup \{p\}$  nije konzistentno, onda je  $p$  zabranjeno, a ako je konzistentno,  $p$  je dopušteno, kao što je pokazano u (2.5) i (2.6). Sličan slučaj vrijedi i za drugu metodu, kao što je pokazano u (2.7) i (2.8).

$$\text{Ako } \pm e (N \cup \{p\}), \text{ onda } Fp. \quad (2.5)$$

$$\text{Ako } \pm i (J \setminus f \cup \{p\}), \text{ onda } Pp. \quad (2.6)$$

$$\text{Ako } \neg p \in Cn(A0, \text{ onda } Fp) \quad (2.7)$$

$$\text{Ako } \neg p \in Cn(M), \text{ onda } Pp \quad (2.8)$$

Primjenitelj normi izvodi dedukciju, no nema nikakvoga "normativnoga sustava", tj. deduktivno zatvorenoga skupa  $Cn(M)$  koji bi morao prethoditi ili bi mogao nastati iz tako dobivenoga određenja deontičnoga statusa stanja stvari koje je uspostavio podložnik normama svojim djelovanjem ili suzdržavanjem od djelovanja. Iako zahtjev drugoga reda za deduktivnom zatvorenosću ili načelo posljedičnosti ne definira savršeno svojstvo empirijskoga skupa normi, on

21 B. Chellas odobrava uporabu obligacija drugoga reda unutar postavke OU. O(OA • A) ili O.T u našoj notaciji: "Primijetimo da je OU poučak deontične S5 ... Shema izražava postavku da treba biti slučaj da što god treba biti slučaj, bude slučaj. Radi se o često raspravljanome načelu u deontičnoj logici jer je jedan od rijetkih plauzibilnih slučajeva poučka oblika OA u kojemu A nije trivijalno." (Chellas 1980: 193).

definira metanormativni kontekst za primjenitelja normi. Načelo posljedičnosti pokazuje da se normativne prosudbe trebaju podvrgavati zakonima logike.

**Usmjerenе obligacije drugoga reda** Različita metanormativna načela prilaže se različitim ulogama u normama vođenome međudjelovanju. Dok su norme uvijek upućene podložnicima normama, obligacije drugoga reda mogu se razlikovati po njihovim adresatima, kao što je pokazano u tablici 1:

ULOGE u normama upravljanome međudjelovanju:	Njihove obligacije drugoga reda:
IZDAVATELJ NORMI g	Treba stvarati skupove normi savršenih svojstava
PODLOŽNIK NORMAMA s	Treba se pokoravati normama
SUDAC j	Treba primjenjivati norme

**Tablica 1.** Različite uloge u normama upravljanome međudjelovanju i njihove obligacije drugoga reda

Ova činjenica upozorava na potrebu reformulacije metanormativnih načela razmatranih u Odsječku 1.3: obligacije drugoga reda O moraju se indeksirati imenima uloga za koje vrijede.<sup>22</sup> Ako se uloga izdavatelja normi označi indeksom G, uloga podložnika normama sa s te uloga primjenitelja normi (suca) sa J, izborom iz metanormativnih načela dobiva se sljedeća reformulacija:

$$\begin{array}{ll} \text{Og(Osp} \wedge \text{Ps p)} & (\text{Og.D}) \\ \text{Os(Osp} \quad \text{p)} & (\text{Os.T}) \\ \text{Oj(Os(p} \quad \text{q)} \wedge (\text{Osp} \wedge \text{Os q})) & (\text{Oj.K}) \end{array}$$

Čitanje se reformuliranih metanormativnih načela može iskazati u terminima modalne semantike. Naprimjer, (Oj.K) čitamo 'Logičke posljedice obligacija podložnika normama jesu njegove obligacije u svim svjetovima u kojima su zadovoljene obligacije primjenitelja normi'.

## 2.2 Savršeno svojstvo u odnosu na derogaciju

Dinamični fenomen revizije teorije prepoznat je najprije i najistaknutije unutar pravne tradicije. Uspostavljeno je nekoliko načela za razrješenje nor-

22 Na isto je upozorio i Yamada (2011: 63): "Formula oblika O,f znači da je za djelatnika i obvezatno učiniti da bude slučaj da 9. Iako indeksiranje deontičnih operatora skupom djelatnika nije standardno u deontičnoj logici, moramo moći razlikovati djelatnike kojima su zapovijedi upućene od ostalih ako želimo rabiti deontičnu logiku za razmišljanje o tome kako činovi zapovijedi mijenjaju situacije".

mativne inkonzistentnosti zahvaljujući određenju hijerarhijskih odnosa među skupovima normi na temelju njihove razine općenitosti (*lex specialis derogat legi generali*), vremenskoga prethođenja (*lex posterior derogat legi priori*) i pravne podređenosti (*lex superior derogat legi inferiori*).<sup>23</sup> Prema Kristan (2014), načela su normativnih sukoba "pravila o pravilima" koja nastaju promulgacijom i stoga pripadaju skupu normi. Gledano iz perspektive normama upravljanoga međudjelovanja, ova se pravila obraćaju ulozi primjenitelja zakona dajući mu metodu za ponovno uspostavljanje konzistentnosti. Postojanje normativnoga sukoba pokazuje da davatelj normi nije uspio zadovoljiti načelo višega reda, načelo konzistentnosti ili preciznije rečeno, vanjske konzistentnosti između skupova normi, međutim zahtjev za konzistentnošću još uvijek vrijedi za primjenitelja normi.

U najjednostavnijemu slučaju čiste derogacije "važenje jedne zakonske norme ukida se i ni jedna nova ne zauzima njezino mjesto," da upotrijebimo Kelsenov opis (1973: 269). Kristan (2014) tvrdi da u ovome slučaju gdje je jedna jedina norma  $x$  normativnoga sustava derogirana "novi skupovi  $A$  i  $Cn(A)$  sastavljeni su od svih elemenata prijašnjih skupova, osim norme  $x$ " (i posljedica ovisnih o  $x$ ). Ova tvrdnja nije općevaljana.

Najjednostavnija derrogacija odgovara operaciji kontrakcije u AGM teoriji (Alchourrón, Gärdenfors i Makinson, 1985). Primjenjujući pojam AGM kontrakcije u normativnom kontekstu, dobivena je sljedeća definicija za operaciju čiste derrogacije: sadržaj norme  $p$  skupa normi  $N$  derogiran je akko operacijom nastaje novi skup  $N+p$  koji je najveći mogući podskup skupa  $M$  koji ne povlači za sobom  $p$ . Operacija čiste derrogacije pododređena je s obzirom da će u tipičnom slučaju biti više od jednoga najvećega mogućeg podskupa  $M$  koji ne povlači za sobom  $p$ . Skup takvih skupova može se nazvati preostatkom skupa  $M$  oduzimanjem  $p$ ,  $J \setminus f \_L p$ . On sadrži sve i samo one skupove  $M$  koji ispunjavaju sljedeće uvjete:

1. Uvjet očuvanja: novi skup normi nastao derrogacijom podskup je izvornoga skupa,  $M. \not\subseteq M$ .
2. Uvjet nepovlačenja: novi skup ne povlači za sobom derogiranu normu,  $p \not\in Cn(M)$ .
3. Uvjet najveće moguće veličine: novi skup zadržava najveći mogući broj normi iz izvornoga skupa, ne postoji skup  $M.'$  takav da  $M. \subset M.' \not\subseteq N$  i  $p \not\in Cn(M')$ .

Analogno operaciji kontrakcije, operacija  $N+p$  čiste derrogacije treba dobiti operaciju izbora  $y$  za izabiranje člana iz preostatka:  $N+p = y(A) \setminus L p$ . Poseban i uredan slučaj čiste derrogacije javlja se kad su norme početnoga skupa

23 Aksiomi za složene hijerarhijske odnose nastale kombinacijom temelja dani su u Malec (2001).

normi međusobno neovisne, tj. kad ni jedna norma nije proizašla iz drugih, tj.  $p \notin Cn(M - \{p\})$  za svaki  $p \in M$ . Samo u ovome posebnom slučaju vrijedi da čista derogacija ne zahtijeva odabir člana s obzirom na to da postoji točno jedan član preostatka skupa, naime  $M - \{p\}$ , (2.9).

$$\text{Ako } p \notin Cn(M - \{p\}) \text{ za sve } p \in M, \text{ onda A/V } p = M - \{p\} \quad (2.9)$$

U svjetlu moguće derogacije, neovisnost normi biva jednim od savršenih svojstava skupa normi, ono koje lišavanjem primjenitelja normi tereta izbora omogućuje "uniformnost sudske prakse". Ako skup normi nema svojstvo neovisnosti, onda bi čista derogacija mogla dovesti do zamjene uloga; bivajući prisljenim izabrati između elemenata preostatka skupa, primjenitelj normi zapravo bi postao njihovim izdavateljem.

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S engleskog prevela Gabriela Bašić.

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## **Metanormative Principles and Norm Governed Social Interaction**

Critical examination of Alchourrón and Bulygin's set-theoretic definition of normative system shows that deductive closure is not an inevitable property. Following von Wright's conjecture that axioms of standard deontic logic describe perfection-properties of a norm-set, a translation algorithm from the modal to the set-theoretic language is introduced. The translations reveal that the plausibility of metanormative principles rests on different grounds. Using a methodological approach that distinguishes the actor roles in a norm governed interaction, it has been shown that metanormative principles are directed second-order obligations and, in particular, that the requirement related to deductive closure is directed to the norm-applier role rather than to the norm-giver role. The approach has been applied to the case of pure derogation yielding a new result, namely, that an independence property is a perfection-property of a norm-set in view of possible derogation. This paper in a polemical way touches upon several points raised by Kristan in his recent paper.

**Keywords:** normative system, standard deontic logic, metanormative principles, derogation, G. H. von Wright

### **1 THE NORMATIVE SYSTEM AS A SET OF NORMS**

In his recent work on normative conflict resolution, Andrej Kristan (forthcoming) adopted the theoretical approach to normativity introduced by Alchourrón and Bulygin (1998). According to the set-theoretic approach presented in Alchourrón and Bulygin (1998), any sentence  $p$  describing "doable" states of affairs is a normative sentence: obligatory if  $p$  belongs to the set of logical consequences of "explicitly commanded propositions", permitted if its negation  $\neg p$  does not belong to the set, and prohibited if not permitted.<sup>1</sup> The metaphor for prescriptive use of language is that of putting something into a container (a proposition into the norm-set). The metaphor should not be stretched too far since sets unlike containers have no identity other than what is

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1 The term 'doable states of affairs' is taken from von Wright (1999) and denotes 'states of affairs which can come to obtain as the result of human action'.

given to them by their membership and, consequently, adding sentences to an existing norm-set creates a new set.

The range of properties that a set of propositions can have is vast and there are two ways to define them: descriptively and normatively. For example, on the descriptive side, a norm-set need not exemplify consistency as a matter of fact but, on the normative side, it may be subordinated to the consistency requirement as a matter of value. Kristan, following Alchourrón and Bulygin, defines the normative system  $W$  in a descriptive way as a set of logical consequences of explicitly commanded propositions  $A$ :  $M = Cn(A)$ . There are, however, some problems with this definition which will need to be resolved.

### 1.1 Consistency and deductive closure

In classical logic, a set  $T$  of propositions is deductively closed just in case the negation of any non-member of the original set can be consistently added to it.<sup>2</sup> This fact is symbolically represented by the formula (1.1).<sup>3</sup>

$$T = Cn(T) \text{ iff } \pm \notin Cn(T \cup \{\neg p\}) \text{ for all } p \notin T \quad (1.1)$$

The notions of consequence and consistency are interdefinable and are both about desirable properties. Is there a reason to regard deductive closure as a property more fundamental than consistency? In this paper we will try to show that there is no order of precedence between these properties. Let the set of contents of explicit commands be the starting point of our analysis. This set is devoid of any inherent logical properties and its creation is an *empirical fact* brought about by the use of language.<sup>4</sup>

**Example 1.** Goble (2009: 484-5) and Broome (2013: 121-2) disagree on the question whether a normative system containing the explicitly commanded proposition (i) 'There shall be no camping at any time on public streets' must also include the proposition (ii) 'There shall be no camping on public streets on Thursday night'. Only if the normative system is defined as a set of all logical consequences of explicit commands, must the answer be in the affirmative, but

- 2 For the left-to-right direction, suppose, for the purpose of a reductio ad absurdum, that the negation of a non-member cannot be consistently added to the deductively closed set. If so, then the non-member of the set is a consequence of it, which is impossible since it is deductively closed. For the right-to-left direction, suppose, for the purpose of a reductio ad absurdum, that an arbitrary sentence is a consequence of the set but not its member. If so, the negation of the sentence can be consistently added to the set, which is impossible if the sentence is a consequence of the set.
- 3 The formula  $\pm \notin X$  says that falsum  $\pm$  is an element in  $X$  or, in other words, that  $X$  is inconsistent. The negation of the former formula is  $\pm \in X$  and it says that  $X$  is consistent.
- 4 In Broome's (2013) theory of requirements, a code delivers a set of propositions closed under congruence, i.e., if a proposition belongs to the set, then so does any proposition equivalent to it. In our approach, all properties, including congruence, are abstracted away.

there are compelling reasons against it, as Broome shows. On the other hand, as Goble notes, the relation between (i) and (ii) concerns "one's reasoning with ought-statements". We will try to show here that both positions are correct.

## 1.2 Perfection properties and norm-sets

Extending von Wright's line of thought, we will show that deductive closure can be understood as one among other perfection-properties.

[C]lassic deontic logic, on the descriptive interpretation of its formulas, pictures a gapless and contradiction-free system of norms. A factual normative order *may* have these properties, and it may be thought desirable that it *should* have them. But can it be a *truth of logic* that a normative order has ("must have") these "perfection"-properties? Von Wright (1999: 32)

Standard or classical KD deontic logic accepts the interdefinability of the modal operators of obligation **O**, prohibition **F** and permission **P** as stated in (Def.) and graphically represented in Figure 1.<sup>5</sup> KD deontic logic extends propositional logic with the necessitation rule (RN) and axiom schemata (K) and (D).

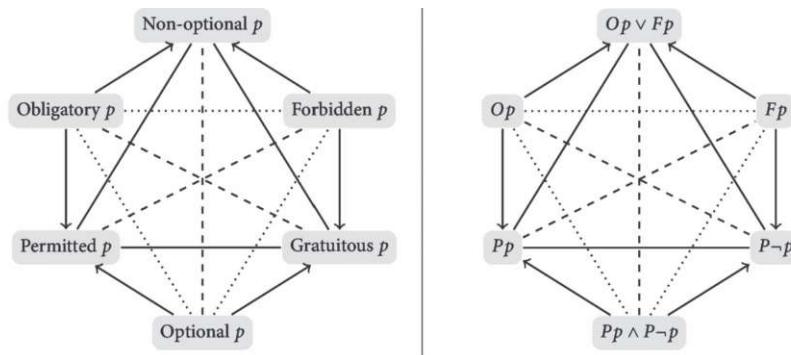
$$Pp \text{ iff } \neg O\neg p \text{ iff } \neg Fp. \quad (\text{Def.})$$

$$\text{If } I\!-\! p, \text{ then } I\!-\! Op. \quad (\text{RN})$$

$$O(p \wedge q) \wedge (Op \wedge Oq) \quad (\text{K})$$

$$Op \wedge Pp \quad (\text{D})$$

**Figure 1:** The hexagon of logical relations holding in standard KD deontic logic. The dotted line represents the contrariety relation, the dashed line represents contradiction, the full line represents subcontrariety, and the arrows represent subalternation (implication). Deontic concepts are expressed in natural language in the left hexagon while the right hexagon presents the corresponding formulas.



5 Wolenski (2008) has given a generalized account of squares, hexagons and octagons of logical relations, along with their applications to different domains of philosophical analysis.

### 1.2.1 Translating modal language to set-theoretic language

In Žarnić (2010), translation from the language of standard deontic logic without iterated operators is defined and it is proved that translated conditions of standard deontic logic describe the gapless, deductively closed and consistent type of norm-set AT. Our basic translations are similar to Alchourrón and Bulygin (1998) but with a slight difference in the definientia since 'membership in  $Cn(A/\")$ ' is now replaced by 'membership in the (possibly deductively unclosed) norm-set  $A/^*$ '. ' $p \in A/\\"$ ' for 'Op', ' $\neg p \in A/^*$ ' for 'Pp', ' $\neg p \in A/\\"$ ' for 'Fp'. In short, the connection between the set-theoretic notion of norm-set and the modal notion of obligation is given by the simple equation:  $N = \{p \mid Op\}$ . The following correspondences hold:

1. It follows from the translation of principle (Def.) on the interdefinability of deontic notions that any norm-set is gapless (complete),  $Pp \vee O\neg p$ , making each doable state of affairs either permitted or forbidden. When translated to set-theoretic language the definition (Def.) expresses a logical truth:  $\neg p \in N \wedge \neg p \in N\beta$

2. The translation of the necessitation rule (RN) gives the claim that logical truths are included in a norm-set,  $Cn(0) \subseteq A/^*$ , while the translation of (K) axiom schema requires closure under modus ponens: *If  $p \bullet q \in N$  and  $p \in M$ , then  $q \in M$ .* Taken together, these two conditions are fulfilled iff a norm-set is deductively closed:  $A/^* = Cn(A/^*)$ .

3. The translation of the (D) axiom schema gives: *If  $p \in M$ , then  $\neg p \notin M$ .* This condition is fulfilled if a norm-set is free of contradiction, i.e. if it is consistent:  $\pm g Cn(M)$ .

On the descriptive side, it is empirically evident that the exemplification of any of these properties is a contingent matter. On the normative side, we must employ meta-normative principles or intuitions in order to evaluate whether some property ought to be encoded by a norm-set.

### 1.2.2 On the possibility of creating a norm-system by norm-promulgation

By its own definition, theory T is a deductively closed set, or symbolically:  $T = Cn(T)$ . Any deductively closed set T is infinite thanks to the inclusion of logical truths, whose number is not finite, or symbolically:  $Cn(0) \subseteq T$  and  $|N| < |Cn(0)|$ . Consequently, one who agrees to define a normative system as a set of command contents has an ontological obligation to concede that infinite objects exist, since normative systems are infinite sets, and also an epistemolo-

<sup>6</sup> This condition can be rewritten in its general form as  $p \notin M$  or  $p \in M$ .

gical obligation to investigate their knowability. If logical truths are subtracted from the set of consequences  $Cn^*(T) = Cn(7\sim) - Cn(0)$ , the resulting set  $Cn^*(T)$  in addition to T will contain relevant consequences, i.e., those elements whose deduction relies on a content from T.

**Example 2.** Imagine that the normative system M is created by the single command 'It is forbidden to see to it that something is the case if one desires it not to be the case' directed to a single actor  $i$ .<sup>7</sup> Can actor  $i$  become aware of all and each norm from the set  $Cn^*(W)$ ? Modal logic translation yields a conditional prohibition 'An actor is forbidden to see to it that something is the case ( $F_i:\text{st}it p$ ) if she desires it not to be the case ( $D_i-p$ )', or symbolically: (1.2). In the set-theoretic approach, the deontic operator is replaced by the membership relation relation between a command content and its norm-set. The content of the command is: 'If actor  $i$  desires that  $-p$  then  $i$  does not see to it that  $p$  is the case', or symbolically: (1.3). The content describes what conformation with the norm looks like and so it belongs to the single command norm-set M, or symbolically: (1.4)<sup>8</sup>

$$D_i-p \wedge F_i:\text{st}it p \quad (1.2)$$

$$D_i-p \wedge \neg i:\text{st}it p \quad (1.3)$$

$$D_i-p \wedge \neg i:\text{st}it p \in M \quad (1.4)$$

If the variable  $p$  ranges over sentences of an infinite language  $\mathcal{L}$ , then it provides infinitely many sentences that can replace  $p$  in (1.4). So, the number of sentences in the set  $Cn^*(M)$  will be infinite.

It is obvious that no normative source can complete the syntactic creation of an infinite set of command contents. Is it necessary to assume the existence of logical objects as infinite, deductively closed sets? The additional problem of deductive closure arises on the side of logic: is the consequence relation which defines a theory identical to the relation that defines the deductive closure of a norm-set? The thesis on the existence of a *sui generis* consequence relation in imperative language use (Žarnić 2011: 95) supports the rejection of the reduction of the consequence relation to the 'logic of observance' in the language of indicatives, just as Hans Kelsen claimed (Kelsen 1973: 254).

One can easily avoid ontological commitment to the existence of infinite norm-sets or logical commitment to the reduction of imperative-logic to indicative-logic by adopting the definition that a norm-set is merely a set of con-

7 This normative system can be interpreted as founded on Nietzsche's maxim "Be thyself!".

8 'Quine quotes' are used for forming the name of an expression. Their use can be omitted if there is no possibility of confusion, but in cases where the same formula is both used and mentioned, Quine quotes will be used.

tents of explicit commands, and the thesis that the deductive closure of a norm-set under some logic is a contingent property.

### 1.3 Metanormative principles

Von Wright (1999: 33) introduced the notion of "normative demands on normative systems" or the notion of 'the metanormative principle', as it will be called hereafter

[another way] /.../ is to view the ideas of completeness and freedom of contradiction as themselves *normative* ideas, as normative demands on normative systems. They could be called *meta-normative* principles. They are norms of *higher order*.

At first sight, it seems possible to understand meta-normative principles as claims that a norm-set ought to have a certain property and to express these claims in formal language by allowing embedded KD modalities. For the purpose of analysis of metanormative principles, the expressive power of formal language will be enriched by introducing S5 alethic modalities of necessity • and possibility O.<sup>9</sup> Alethic modalities can be interpreted in different ways: as logical, as nomological, and as historical possibilities.<sup>10</sup> The concepts are ordered by inclusion: historical possibility is a nomological possibility and nomological possibility is a logical possibility.

The following list contains some *prima facie* plausible metanormative principles, denoted by tags of their formal translations given below:

- A norm-set ought to be gapless: (O.def.).
- A norm-set ought to be deductively closed: (O.RN) with (O.K).<sup>11</sup>
- A norm-set ought to be consistent: (O.D).
- A norm-set ought to be realizable: (O.OO).<sup>12</sup>
- A norm-set ought to be realized: (O.T).

The following formal modal expressions for the listed metanormative principles are obtained using new symbol O for the second-order obligation:

$O(Pp \vee O\neg p)$	(O.def.)
$O(dp * Op)$	(O.RN)
$O(O(p * q) * (Op * Oq))$	(O.K)

9 S5 logic can be axiomatized by rule of necessity: If I- p, then I- Dp, axiom schemata: (K) m(p • q) • (Dp • Dq), (T) Dp • p, (4) Dp • • Dp, (5) Op • dOp, and the definition: Op « -d-p.

10 Logical possibility is a world where laws of logic hold, nomological possibility is a world where logical and natural laws hold, and historical possibility is a nomological possibility that lies in the future of another nomological possibility.

11 If modality • is interpreted as logical necessity, then the meta-principle says that a given norm-set ought to include all logical truths.

12 Modality O can be interpreted as historical possibility in the remainder of the text.

$O(Op * Pp)$	(O.D)
$O(Op * op)$	(O.O)
$O(Op * p)$	(O.T)

Since in the set-theoretic approach only first-order translations can be given, the approach will have to be extended in order to accommodate metanormative expressions. One suggestive solution is to treat metanormative expressions as claims that a given norm-set type belongs to a certain class of norm-set types. The translation for the first-order obligation  $Op$  is ' $p$  is a member of the norm-set  $A^{\#}$ '. Almost analogously, the statement ' $p$  is a perfection property' and its extensional reformulation 'the set of norm-sets satisfying condition  $p$  is a member of the perfection-set' seem to provide a viable translation for the second-order obligation claim  $Op$ . Let's call  $\text{Perfect}$  the set of sets of norm-sets sharing certain perfection properties. To say that a property  $p$  of norm-sets is a perfection property means to say that 'the set of norm-sets that satisfy condition  $p$  is an element in  $\text{Perfect}$ ', or symbolically ' $\{A^{\#} \mid M \text{ satisfies condition } p\} \in \text{Perfect}$ '.

**Remark 3.** If one accepts Gödel's assumption that the second order property of being a positive property creates an ultrafilter, then a set of norm-sets having all perfection properties must be non-empty. Let's call it  $\text{Ideal}$ . Let  $a$  be the set of norm-sets having a certain perfection property. Then the expression ' $a \in \text{Perfect}$ ' means the same as ' $\text{Ideal} \neq a$ '. An ultrafilter of a given set is a set of its subsets that is closed under intersection and superset relation, the empty set is not its element and for any set either the set or its complement is a member of the ultrafilter.<sup>13</sup>

**Remark 4.** Can a norm-set have the property of making each doable state of affairs either obligatory or forbidden? Let's call this property *the property of non-optionality* since it leaves no place for optional acts and forbearances. If a normative system is conceived as generated by deduction from a norm-set, then it should be noted that Gödel's incompleteness theorem implies the unsatisfiability of the condition  $p \in Cn(M) \vee \neg p \in Cn(N)$  for a norm-set formulated in a language that is rich enough to express its own syntax (e.g., natural language). Since no normative system can satisfy this requirement, the property of non-optionality cannot be a perfection property under the Gödelian ontology of positive properties.

Next we proceed to the translation algorithm for the formulas where iterated deontic modalities of the same type are not allowed while first-order deontic modalities are allowed to occur within the scope of second-order ones.

13 For an investigation into Gödel's ontology of properties, see Kovac (2003).

**Definition 5.** Let  $\mathcal{L} \bullet_{PL}$  be the language of alethic modal logic. Function  $T^1$  translates formulas with first-order deontic modalities:

$$\begin{aligned} T^1(p) &= p \text{ if } p \in \text{LapL} \\ T^1(Op) &= {}^rT^1(py) \in M \\ T^1(Pp) &= {}^rT^1(-pr \notin M) \\ T^1(\neg p) &= \neg T^1(p) \\ T^1((p * q)) &= (T^1(p) \wedge T^1(q)) \end{aligned}$$

**Definition 6.** Function  $T^2$  translates those formulas whose main operator is a second-order deontic modality:

$$\begin{aligned} T^2(Op) &= \{M \mid T^1(p)\} \in \text{Perfect} \\ {}^r(Pp) &= \{M \mid \neg T^1(p)\} \notin \text{Perfect} \end{aligned}$$

**Example 7.** Let  $p$  be a sentence with no occurrence of first-order or second-order modalities.

$$\begin{aligned} T^2(O(Op \wedge Op)) &= \{Af \mid T^1(Op \wedge Op)\} \in \text{Perfect} \\ &= \{Af \mid T^1(Op) \wedge T^1(Op)\} \in \text{Perfect} \\ &= \{AA \mid T^1(p) \in AT \wedge Op\} \in \text{Perfect} \\ &= \{Af \mid {}^rP^n \in AT \wedge Op\} \in \text{Perfect} \end{aligned}$$

The translation for the condition (O.OO) says that requiring only that which is possible is a perfection property of norm-sets.

**Example 8.** The translation for the condition (O.T) is much less plausible.

$$T^2(O(Op \rightarrow p)) = \{Af \mid p \in N \rightarrow p\} \in \text{Perfect}$$

This says that requiring only that which is the case is a perfection property of norm-sets and that is obviously not the intended translation for the principle *a norm-set ought to be realized*.

The unequal plausibility of the translations in examples (7) and (8) shows that second order obligations designated by the homonymous expression — 'ought to be' in 'a norm-set ought to be realizable' and in 'a norm-set ought to be realized' — do not belong to the same category.

### 1.3.1 Roman Law principle as a norm for the norm-giver

We aim to draw a conceptual distinction between types of second order obligations with respect to the roles of actors involved in norm promulgation, norm realization and norm application. First, let our attention be drawn to the first

type, namely to the normative context of norm promulgation, the obligations for the norm-giver. The so-called 'Roman Law principle' forbids the norm-giver to require non-doable acts since no-one can be obliged to do the impossible. It will be shown that from the standpoint of standard deontic logic the use of the term 'principle' is unjustified because the Roman Law principle will be satisfied by a normative system whose norms consistently select only that which is possible.

The content  $Op - Op$  of the metanormative principle (O.OO) has played an important role in normativity theory. Aristotle's claim that in deliberation "If people meet with an impossibility, they give up" (Aristotle, *Nicomachean Ethics*, 1112b) can be understood as a contrapositive formulation of a related principle. In metanormative interpretation, the Aristotelian deliberation principle states that the impossible ought not to be the content of an intention. Closer to the (O.OO) principle comes the Roman Law principle *ultra posse nemo obligatur* (*ad impossibilia nemo tenetur, impossibilium nulla obligatio*), itself a predecessor of the '*ought*' implies '*can*' principle that Kant formulated and for which  $Op - Op$  seems to be the direct translation.<sup>14</sup> Nevertheless, the logic of the actor's ability differs from the logic of alethic possibility. Some theorems of alethic logic fail in the logic of ability. For example, the thesis *If something is the case, then it is possible, p - Op*, is valid in alethic logic but its ability counterpart is not: the thesis *If something is done, then it can be done* fails in the logic of ability.<sup>15</sup> The metanormative principle with alethic modality is an over-generalization of these principles: whatever is forbidden because of alethic impossibility is also forbidden by the '*ought*' implies '*can*' principle, but the converse does not hold.

Terminologically speaking, the use of the term 'principle' is not correct in the context of principles (O.D) and (O.RN) since  $Op - Op$  is a theorem that follows from  $\bullet p - Op$  in conjunction with  $Op - Pp$ , i.e. from the contents of (O.D) and (O.RN). Two proofs, different in style, will be given for the fact.

**Theorem 9.**  $Op - Op \in Cn(\{Dp - Op, Op - Pp\})$

*Proof.* First, let us give a deduction proof relying on the syntax of the language. From  $Dp - Op$  and the definitions of deontic and alethic modalities we obtain the corollary: *If a state of affairs is permitted to be the case, then it is possible for it to be the case, Pp - Op*. Assume that  $p$  is obligatory,  $Op$ . Then  $p$  is permitted,  $Pp$ , according to axiom D. From the corollary it follows that  $p$  is possible,  $Op$ . Therefore, if a state of affairs is obligatory, then it is possible,  $Op - Op$ . Q.E.D.

14 There are numerous passages in Kant's works dealing with the principle. For example, in *Religion Within the Boundaries of Mere Reason* (1793), a succinct formulation is given as "duty commands nothing but what we can do" Kant (1998: 68).

15 Picking the queen of hearts out of a card deck does not imply the ability to do so; see Brown (1992).

*Proof.* Second, let us give a proof in semantic terms! The basic semantic idea of modal logic is that the truth value of a formula at a point of valuation depends on the formula's truth values at other valuation points accessible via an appropriate relation. The deontic accessibility relation,  $Dwv$ , connects the world  $w$  to its normative alternatives  $v$  in which the norm-set is realized,  $M Q v$  for all  $v \in \{v \mid Dwv\}$ . Similarly, the alethic accessibility relation interpreted, say, as nomological possibility,  $Nwv$ , connects the world  $w$  to any of its alternatives  $v$  in which all logical and natural laws hold. For some modal formulas (Sahlqvist formulas), the corresponding first-order property of the accessibility relation can be computed using the Sahlqvist-van Benthem algorithm.<sup>16</sup> It is known that  $Op = Pp$  determines the seriality property of the deontic relation,  $\forall x \exists y Dxy$ . As stated above, this means that the given norm-set is consistent. Using the algorithm the following interrelation properties can be computed:

- $Op = 0p$  determines  $\forall x \exists y (Dxy \wedge Nxy)$  interrelation property. It could be termed as the 'convergent seriality property of a relation pair' and it says that there is always a deontically accessible situation which is also nomologically possible. Or to use Professor's Segerberg's metaphor, *there are no tragic dilemmas* (Segerberg, 2003). A set of norms which exemplifies this property provides a possible and legal way out of any situation.
- $\bullet p = Op$  determines the subordination of the deontic relation under nomological  $\forall x \forall y (Dxy \rightarrow Nxy)$ . A set of norms can be realized only in nomologically possible situations: if there is a legal way out of a situation, then this is also a possible way out.<sup>17</sup>

It is easy to see that if the deontic relation is serial and subordinated to the nomological, it must always have a point of convergence with it, a point where norms are realized in a nomologically possible world.<sup>18</sup> Therefore, '*ought*' implies '*can*' is not a self-justifying principle but a consequence of other principles. Q.E.D.

16 Van Benthem defines the set of formulas algorithmically translatable to their first order equivalents in the following theorem: "Theorem 19. There exists an effective algorithm which translates all modal axioms of the form  $A \rightarrow B$  into corresponding first-order properties, where  $A$  is constructed from basic formulas  $\bullet \dashv Dp$  using only  $A, V, 0, B$  is 'positive': constructed from proposition letters with only  $A, V, 0, \bullet,$ " (van Benthem 2010: 106).

17 For the purpose of illustration let us use the Sahlqvist-van Benthem algorithm to determine correspondences. We start with (i)  $Op = Op$  and apply standard translation in two steps: (ii)  $\forall P \forall T_x (dp \rightarrow Op)$ ; (iii)  $\forall P (\forall y (R_{Nxy} \rightarrow Py) \rightarrow \forall y (Roxy \rightarrow Py))$ . Then we determine the minimal valuation (iv)  $Pu := R_{Nxu}$  and perform substitution: (v)  $\forall y (R_{Nxu} xy \rightarrow R_{Nxy}) \rightarrow \forall y (Roxy \rightarrow R_{Nxy})$ . By simplification we get (vi)  $T \rightarrow \forall y (Roxy \rightarrow R_{Nxy})$  and, finally, (vii)  $\forall x \forall y (Roxy \rightarrow R_{Nxy})$ .

18 The formula  $(\forall x \exists y Dxy \wedge \forall x \forall y (Dxy \rightarrow Nxy)) \rightarrow \forall x \exists y (Dxy \wedge Nxy)$  is a first-order logical truth.

## 2 NORMS AND SOCIAL INTERACTION

Two actor roles in communication are commonly recognized: the role of sender and the role of receiver, but, in a norm governed social interaction, besides the roles of norm-giver and norm-subject there is an additional role, the role of norm-applier. Communication is a kind of action, and that, according to Parsons' (1937) definition, means that the sender has an aim in a situation whose conditions and means are subordinated to normative requirements.<sup>19</sup> The last condition in Parsons' definition of action points to its normative dimension. Similarly, Habermas equates the *social world* with the *normative context*.<sup>20</sup> The acts related to norms (promulgation, observance, application), as acts and social facts, must have their own normative contexts which, according to our hypothesis, are made explicit in their metanormative principles.

### 2.1 Normative contexts for norm related acts

As noted above, in a norm governed interaction there are three actor roles: the norm-giver, the norm-subject and the norm-applier role; and there are three types of norm related actions: norm-promulgation, norm-regulated action, norm-based judgement. In this kind of interaction, a norm-giver by norm-promulgation regulates the actions of a norm-subject whose observance of the norms is judged by a norm-applier.

First, we turn to the normative context of the norm-promulgation act. According to our interpretation, the language of KD logic is a description language and its axioms describe properties of norm-sets: the axiom K defines consequentiality and the axiom D defines consistency. If the promulgation of a norm-set is an act (in Parsons' sense) or a social fact (in Habermas' sense), then at least one of its properties is either permitted or forbidden. For example, if it is not considered desirable that a promulgated norm-set is inconsistent, then desirability of the consistency property constitutes the normative context for norm promulgation. This desirable property can be interpreted as a second-

<sup>19</sup> Parsons' definition of action: "...an 'act' involves logically the following: (1) It implies an agent, an 'actor.' (2) For purposes of definition the act must have an 'end,' a future state of affairs toward which the process of action is oriented. (3) It must be initiated in a 'situation' of which the trends of development differ in one or more important respects from the state of affairs to which the action is oriented, the end. This situation is in turn analyzable into two elements: those over which the actor has no control, that is which he cannot alter, or prevent from being altered, in conformity with his end, and those over which he has such control. The former may be termed the 'conditions' of action, the latter the 'means.' Finally (4) there is inherent in the conception of this unit, in its analytical uses, a certain mode of relationship between these elements. That is, in the choice of alternative means to the end, in so far as the situation allows alternatives, there is a 'normative orientation' of action" Parsons (1937: 44).

<sup>20</sup> Habermas writes: "A social world consists of a normative context that lays down which interactions belong to the totality of legitimate interpersonal relations" Habermas (1984: 88).

order obligation and can be expressed by the claim that a norm-set ought to be consistent, as stated in (O.D) above. As regards the question whether it is desirable that a norm-set has all of its deductive consequences, a negative answer seems inevitable since the production of an infinite text is not a doable act. Therefore, the desirability of consistency belongs to a category different from the desirability of consequentiality or deductive closure.

Second, let us investigate the normative context of norm observance. A specific type of desirability appears in the metanormative thesis (O.T), a thesis which can be plausibly interpreted as *Conformation to norms is desirable, Duty must be done, Norms ought to be realized*, and so on.<sup>21</sup> As noted above, it is not plausible, however, to interpret the thesis as a claim about a desirable property of a norm-set since the claim *It is desirable that norms require only what is the case* results in a kind of normative collapse. Rather, the thesis can be understood as an observance principle since it shows that a norm is that which ought to be observed. From this perspective, there is an important difference between the two meta-norms: unlike the norm-giver, the norm-subject has no obligations with respect to the properties of norm-sets, and unlike the norm-subject, the norm-giver has no obligations with respect to the observance of norms.

Third, let us discuss the normative context of norm application. The norm-applier or judge decides on the deontic status of a state of affairs brought about by the norm-subject's act. Suppose that a norm-subject has brought about that  $p$ . The norm-applier has to determine the deontic status of  $p$  with respect to some norm-set  $N$  and can do so by two logically equivalent methods: either by adding  $p$  to  $M$  and testing the consistency of the extended set  $A'' \cup \{p\}$  or by examining whether  $\neg p$  is a consequence of  $N$ . According to the first method, if  $H \cup \{p\}$  is not consistent, then  $p$  is forbidden, and if it is consistent, then  $p$  is permitted, as shown in (2.5) and (2.6). A similar case holds for the second method, as shown in (2.7) and (2.8).

$$\text{If } \pm e (Af \cup \{p\}), \text{ then } Fp. \quad (2.5)$$

$$\text{If } \pm g (N \cup \{p\}), \text{ then } Pp. \quad (2.6)$$

$$\text{If } \neg p \in Cn(A''), \text{ then } Fp. \quad (2.7)$$

$$\text{If } \neg p \in Cn(A0), \text{ then } Pp \quad (2.8)$$

The norm-applier performs deduction but there is no "normative system", no deductively closed set  $Cn(N)$  that needs to precede or can result from the thus

<sup>21</sup> B. Chellas approves the use of the second order obligation within the thesis OU. O(OA • A) or O.T in our notation: "Note that OU is a theorem of deontic S5 /.../ The schema expresses the thesis that it ought to be the case that whatever ought to be the case be the case. It is a much discussed principle in deontic logic, because it is one of the few plausible cases of a theorem of the form OA in which A is non-trivial ..." (Chellas 1980: 193).

obtained determination of the deontic status of the state of affairs brought about by a norm-subject act or by forbearance. Although the second-order requirement of deductive closure or the consequentiality principle does not define the perfection-property of an empirical norm-set, it does define the metanormative context for the norm-applier. The consequentiality principle shows that normative judgements ought to obey the laws of logic.

**Directed second-order obligations.** Different metanormative principles are attached to different roles in norm-governed interaction. While norms are always directed to norm-subjects, second-order obligations can be differentiated by their addressees as shown in Table 1. This fact indicates the need to reformulate the metanormative principles discussed in Section 1.3: second-order obligations  $O$  must be indexed by their holders' names.<sup>22</sup> If the norm-giver role is denoted by the index  $g$ , the norm-subject role by  $s$  and the norm-applier (judge) role by  $j$ , the selection of metanormative principles obtains the following reformulation:

$Og(Osp * Ps p)$	(Og.D)
$Os(Osp p)$	(Os.T)
$Oj(Os(p q) (Osp Osq))$	(Oj.K)

The reading of reformulated metanormative principles can be given in terms of modal semantics. For example, (Oj.K) reads 'The logical consequences of the norm-subject's obligations are norm-subject obligations in all the worlds where the norm-applier's obligations are satisfied'.

**Table 1:** The different roles in norm governed interaction and their second-order obligations.

RoLES in norm governed interaction	Their second-order obligations:
NORM-GIVER $g$	ought to create norm-sets with perfection properties
NORM-SUBJECT $s$	ought to observe norms
JUDGE $j$	ought to apply norms

22 The same point has been made by Yamada (2011: 63): "The formula of the form  $Oif$  means that it is obligatory upon agent  $i$  to see to it that  $f$ . Although indexing of deontic operators with a set of agents is not standard in deontic logic, we need to be able to distinguish agents to whom commands are given from other agents if we are to use deontic logic to reason about how acts of commanding change situations".

## 2.2 A perfection-property related to derogation

The dynamic phenomenon of theory revision has been first and foremost recognized within the legal tradition. Several principles for the resolution of normative inconsistency have been established thanks to the determination of hierarchical relations between norm-sets on the grounds of their generality level (*lex specialis derogat legi generali*), temporal precedence (*lex posterior derogat legi priori*) and legal subordination (*lex superior derogat legi inferiori*).<sup>23</sup> According to Kristan (forthcoming), the principles of normative conflict are "rules about rules" which are generated by promulgation and thus belong to a norm-set. Viewed from the perspective of norm-governed interaction, these rules address the role of the norm-applier, giving a method for consistency restoration. Normative conflict shows that the norm-giver has failed to satisfy the higher-order principle of consistency or, more precisely, external consistency between norm-sets, but the requirement of consistency still holds for the norm-applier.

In the simplest case of pure derogation "the validity of a legal norm is repealed and no new one takes its place," to use Kelsen's (1973: 269) description. Kristan claims that in this case where a single norm  $x$  of a normative system is derogated "the new sets  $A$  and  $Cn(A)$  are composed of all the elements of the previous ones, except  $x$ " (and the consequences depending on  $x$ ). This claim is not generally valid.

The simplest derogation corresponds to the contraction operation in AGM theory (Alchourrón, Gärdenfors, and Makinson, 1985). Applying the notion of AGM contraction to the normative context, the following definition for the operation of pure derogation is obtained: a norm-content  $p$  of a norm-set  $M$  is derogated iff the operation results in a new set  $M+p$  which is a maximal subset of  $M$  that does not entail  $p$ . The operation of pure derogation is sub-determined since, typically, there will be more than one maximal subset of  $M$  not entailing  $p$ . The set of such sets can be called the remainder set of  $M$  by  $p$ ,  $M\_L p$ . It contains all and only those sets  $M$  that satisfy the following conditions:

1. The preservation condition: a new norm-set resulting from derogation is a subset of the original set,  $M \not\vdash M$ .
2. The non-entailment condition: a new set does not entail the derogated norm,  $p \not\vdash Cn(M)$ .
3. The maximality condition: a new set retains the maximal number of norms from the original set, there is no  $M'$  such that  $M \not\vdash M' \not\vdash M$  and  $p \vdash Cn(M')$ .

<sup>23</sup> The axioms for complex hierarchical relations resulting from combinations of grounds are given in Malec (2001).

Analogously to the contraction operation, the operation  $A/Vp$  of pure derogation needs an additional choice operation  $y$  to pick a member of the remainder set:  $A/Vp = y(A'' \setminus L p)$ . The special and neat case of pure derogation arises when the norms of the initial norm-set are independent, i. e. when no norm from the set is entailed by the rest, i. e.  $p \notin Cn(N - \{p\})$  for all  $p \in A_f$ . Only in this special case does it hold that pure derogation imposes no need to choose since there is exactly one member in the remainder set, namely  $N - \{p\}$ , (2.9).

$$\text{If } p \notin Cn(M - \{p\}) \text{ for all } p \in M, \text{ then } M+p = M - \{p\} \quad (2.9)$$

In view of possible derogation, independence turns out to be another perfection property of a norm-set, one that by relieving the burden of choice from the norm-applier enables "uniformity of judicial practice". If a norm-set does not have the independence property, then pure derogation could lead to the switching of roles: by being forced to choose between the elements of the remainder set, the norm-applier actually becomes the norm-giver.

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*Synopsis*

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## Metanormative Principles and Norm Governed Social Interaction

SLOV. | *Metanormativna načela in z normami urejano družbeno življenje.* Če kritično preverimo opredelitev normativnega sistema, ki sta jo z uporabo teorije množic podala Alchourrón in Bulygin, ugotovimo, da deduktivna zaprtost ni njegova neizbežna lastnost. Sledec von Wrightovemu sklepu, da aksiomi standardne deontične logike opisujejo popolnostne lastnosti množice norm, avtorja predstavita algoritem, ki modalni jezik prevaja v jezik teorije množic. Prevodi nam razkrijejo, da ima verodostojnost metanormativnih načel različne temelje. Ob ločitvi igralnih vlog, ki jih imajo udeleženci z normami urejane interakcije, se izkaže, da so metanormativna načela usmerjene obveznosti drugega reda, predvsem pa, da so zahteve, povezane z deduktivno zaprtoštjo, naslovljene na vlogo uporabnika norm in ne na vlogo njihovega ustvarjalca. Če ločevanje vlog uporabimo tudi na primeru čiste derogacije, pridemo do novih zaključkov. Ugotovimo namreč, da je neodvisnost iz vidika morebitne derogacije popolnostna lastnost dane množice norm. Avtorja se tako polemično dotikata nekaterih točk, ki jih je nedavno v svojem članku izpostavil Kristan.

**Ključne besede:** normativni sistem, standardna deontična logika, metanormativna načela, derogacija, G. H. von Wright

ENG. | Critical examination of Alchourrón and Bulygin's set-theoretic definition of normative system shows that deductive closure is not an inevitable property. Following Von Wright's conjecture that axioms of standard deontic logic describe perfection-properties of a norm-set, a translation algorithm from the modal to the set-theoretic language is introduced. The translations reveal that the plausibility of metanormative principles rests on different grounds. Using a methodological approach that distinguishes the actor roles in a norm governed interaction, it has been shown that metanormative principles are directed second-order obligations and, in particular, that the requirement related to deductive closure is directed to the norm-applier role rather than to the norm-giver role. The approach has been applied to the case of pure derogation yielding a new result, namely, that an independence property is a perfection-property of a norm-set in view of possible derogation. This paper in a polemical way touches upon several points raised by Kristan in his recent paper.

**Keywords:** normative system, standard deontic logic, metanormative principles, derogation, G. H. von Wright

**Summary:** 1. The Normative System as a Set of Norms. — 1.1. Consistency and Deductive Closure. — 1.2. Perfection Properties and Norm-sets. — 1.2.1. Translating Modal Language to Set-theoretic Language. — 1.2.2. On the Possibility of Creating a Norm-system by Norm-promulgation. — 1.3. Metanormative Principles. — 1.3.1. Roman Law Principle as a Norm for the Norm-giver. — 2. Norms and Social Interaction. — 2.1. Normative Contexts for Norm Related Acts. — 2.2. A perfection-property to derogation.

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