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Can Human Rights be Real? Can Norms be True?

On the 60th anniversary of the Universal Declaration of Human Rights

1. Introduction—can logic be ethics?

The problem I am going to discuss seems at first glance to belong to logic, semantics, or the philosophy of language. A basic course in logic for lawyers will describe the distinction of three major types of utterances: descriptive (declarative statements), such as "an apple is red"; evaluative (evaluations, axiological statements, value judgments), such as "an apple is good"; and prescriptive utterances (norms, orders), such as "people should eat apples", or "eat an apple!". Most Polish lawyers as students have probably come across the following words from Zygmunt Ziembiński's *Practical Logic*: "An utterance is true or false only if it describes some state of matter or some event in agreement with or contrary to reality. If an utterance does not describe anything, but expresses only somebody's evaluation, we cannot assert that it is either true or false" (Ziembiński 1976, 123).[1] An evaluation is then characterized as an emotional attitude (of approving or disapproving) toward a particular state of affairs.[2]

Of course, according to Ziembiński, prescriptive utterances also may be neither true nor false. I am interested primarily in legal norms, which are an instance of norms of conduct. Ziembiński characterizes a norm of conduct as "a pronouncement which orders (or forbids) somebody directly to behave so

[1] The Polish version of this manual, *Logika praktyczna*, has appeared in 26 editions, from the earliest in 1956, to the recent edition of 2007.

[2] "Some utterances formulated by us express not only our conviction that it is so and so, or that it is not so and so, but they can at the same time express our evaluation, that is to say our emotional attitude to this particular stat of affairs" (Ziembiński 1976, 122).

and so under definite circumstances" (ibid., 126). He argues that "the utterance '*x* should do *C*' does not in itself state that it is so and so, or that it is not so and so, hence it cannot be either false or true" (ibid., 126).

The above statements seem to be nothing more then basic clarifications belonging to logic. We tend to think that there is nothing less ideological or more morally neutral than logic. How wrong we are! When the above solutions are applied to morality—moral evaluations and moral norms—then the most fundamental metaethical dispute has already been solved: I mean the dispute between cognitivism and noncognitivism.

Cognitivism is generally characterized as "the claim that moral attitudes are cognitive states rather than noncognitive ones" (Dancy 1998, point 1). In this paper, I accept quite a "strong" version of cognitivism. By cognitivism I understand the claim that there are moral evaluations which are a result of cognition, and therefore they are judgments and they inform us about a certain reality, about certain states of affairs; consequently there are moral evaluations which can be true or false—accordingly there are also evaluative utterances which can be true or false. Noncognitivists deny that there are moral evaluations which result from cognition; such evaluations for them never inform us about reality, and cannot be true or false.

Ziembiński's position is a typical noncognitivist one, called emotivism. This view dominates in the contemporary education of lawyers in Poland, and it is taken for granted as an obvious statement in the field of logic or semantics that descriptive utterances can be true or false, while evaluative or prescriptive ones cannot.

I am going to challenge this view. Moreover, I accept a "strong" concept of truth based on a correspondence theory of truth. According to this theory, "every truth bearer: proposition, sentence, belief, and so on, is correlated to a possible fact. If the possible fact to which a given truth bearer is correlated actually obtains, the truth bearer is true; otherwise is false" (Kirkham 1998, point 1). In the traditions to which this theory refers, the main idea was expressed as a definition: "veritas est adaequatio rei et intellectus" (*truth is an adequacy between a thing and an intellect*).

The major problem in defending a view that a given evaluation or norm is true or false is indicating the fact to which this evaluation or norm is supposed to be correlated—a state of affairs that this evaluation is about. The simplest solution is to recognize that evaluations are about values which objectively exist (are valid), and are pure intellectual entities (like Plato's ideas), which we can get to know about by a special kind of intuition. Validity or normativity is something given, and it is a fundamental property of these en-