

UGRC 150

CRITICAL THINKING & PRACTICAL REASONING

UNIT 5 – THE NORMATIVE AND THE EMPIRICAL

Instructor: **Dr. Richmond Kwesi**

Dept. of Philosophy & Classics, UG

Contact Information: rkwesi@ug.edu.gh



UNIVERSITY OF GHANA

Session Overview

- Think of an example where someone is criticizing *on moral grounds* the legitimacy or *justness of a civil statute or a law*. Imagine a situation where there seem to be a conflict between something that is an accepted practice on *legal* grounds but is regarded as unacceptable on *moral* grounds. These examples and situations illustrate that there must be more than one sense we attribute to the notion of *law*.
- To avoid being fooled by switching connotations without indication, this session introduces the critical thinker to the different senses of *law*.
- Required Reading: **UNIT 5**

Review: Factual statements vs Value Judgements

- **Factual statements** are expressions that *describe the way the world is*. What this means is that, they give a report of the way the world is as we experience them with our *senses*.
- We call them **EMPIRICAL** because they are expressions derived from *experience* or *observations* and they are *verifiable*.
- **Value judgments** on the other hand are expressions that *prescribe or evaluate* the way the world or things or someone *should or ought* to be.
- We call them **NORMATIVE** because they state *standards* or *norms* to *prescribe or evaluate* an action or behavior or something.

The Normative and the Empirical

- The distinction between factual statements and value judgements, therefore, helps us to understand general claims of two kinds: *normative principles*—which indicate how things *must* be or how they *should* be—vs. *empirical generalisations*—which supposedly report how things are in fact.
- Rules or laws of Logic and Critical thinking are *normative*, in the sense that they capture how we *ought* to think and not how we actually *do* think

The Different Senses of 'Law'

LAW

- There is no one definition for the word 'law' but rather different notions. Depending on the context of usage, the word law can mean a natural law, civil law, customary law, moral law, law of reasoning, mathematical law or divine law.
- Law is a system of rules or general principles that govern the nature of things, or the way individuals are supposed to behave.
- Laws are expressed in the form of statements.
- Some laws are descriptive and others are prescriptive.

1. NATURAL LAW

- **Natural laws also called scientific laws** refer to statements that express laws about nature (living things, rivers, celestial bodies etc.)
- They are defined as statements that *aim to describe the regularities or uniformities in the patterns of event or features of things we observe around us.*
- They are **formed** based on our **past experiences**. For instance, we observe that **at any point in time when a fish is taking out of water for a maximum of five minutes, it dies** so we conclude that “***all fish survive in water***” as a statement that expresses an attribute or a property that applies to all fish any where, anytime.

NATURAL LAW.....

EXAMPLES

1. Every planet moves around the sun in an elliptical orbit.
2. All metals expand when heated.
3. Any physical object that goes up must come down.
4. All green plants use sunlight for photosynthesis.
5. All fish live in water.
6. Every human being breath oxygen.

NB

- Natural law statements ***have no exceptions*** and are therefore called **law-like**. But there is no way to be **absolutely certain that such statements will always be true**. So they are called **law-like** because maybe someday ***counterevidence*** will make them **false**.

NATURAL LAW....

- Natural laws are **disguised predictions**. *They predict about future realities. The statement “**all metals expand when heated**” means that “**if you come across any metallic object and you heat it then expect it to expand.**”*
- But what if you discover a new metal and it does not expand upon heating it, then it will make the statement “**all metals expand when heated**” to be false.
- *Scientific laws always depend upon evidence, and they are predictions. They may turn out to be false so we call them law-like statements or hypothesis*
- NB: Since they describe regularities and uniformities in the patterns of events around us they are **EMPIRICAL**.

NATURAL LAW....

- This sense of natural law in terms of scientific law makes natural law **an empirical concept**
- Natural law **as a normative concept** is about rules for how humankind should fit in with a divinely ordained natural order of things.
 - This sense of natural law works on the presumption that rationally organized and legitimized social conduct follows from a larger picture of the universe
 - Hence, we can say things like a particular action is unnatural or that it does not cohere with the laws of nature

2. CIVIL LAW AND STATUTORY LAW

- **CIVIL LAWS AND STATUTORY LAWS** are *man-made* laws that represent the *legal instruments that governments of states use to regulate the behavior of citizens*. They prescribe how citizens ought to behave in specific circumstances.
- They are laws backed by **force since they come with sanctions**.
- ***NB: They are prescriptive statements since they express what one should do or must not do, so they are NORMATIVE.***

CIVIL LAW AND STATUTORY LAW

Examples

1. Commercial laws
2. Tax laws
3. Constitutional statutes
4. Land tenure regulations
5. Rules for electoral process.
6. Criminal laws in response to rape, stealing, murder, manslaughter, assault.
7. Human rights laws, traffic laws, interstate laws etc.

NB

- If these laws are broken by individuals, the individuals are rather punished. Violations do not make the laws falsified and for that matter must be changed. The laws still remain and sanctions are carried out. This is what makes it different from natural laws. ***The sanctions attached are what makes them laws to be obeyed by all citizens.***

CIVIL LAW AND STATUTORY LAW

- Example: 1992 Constitution of Ghana:
- Article 276 (1) A chief shall not take part in active party politics; and any chief wishing to do so and seeking election to parliament shall abdicate his stool or skin. Notwithstanding clause (1) of this article and paragraph (c) of clause (3) of article 94 of this constitution, a chief may be appointed to any public office for which he is otherwise qualified.

3. CUSTOMARY LAW

- The laws, practices, customs of indigenous and local communities which are intrinsic and central part of the way of life of these communities.
- Customary laws are embedded in the culture and values of a community or society, they govern acceptable standard of behaviour and are actively enforced by members of the community.
- Most customary laws deal with standards of the community that have been long-established in a given locale
- Generally, customary laws are not written, but are transmitted through oral tradition and practice.

CUSTOMARY LAW

- Just like the civil laws or statutory laws, **they are man-made and also have sanctions attached to them to regulate behaviors of members of a particular community, clan or lineage.** The system of authority that enforces the customary laws are ***Chiefs, clan heads*** etc.

Examples

1. Taboos like incest, not farming or fishing on a particular day.
 2. The traditional customary marriage.
 3. Acknowledgements of chiefs as traditional custodians of lands.
 4. Traditional inheritance system and marriage system. etc
- ***NB CUSTOMARY LAWS ARE ALSO NORMATIVE.***

CUSTOMARY LAWS and CULTURAL NORMS

- Customary laws are **distinguished** from cultural norms, social rules and conventions in the sense that the ***latter are not laws and they do not have sanctions attached to them in case of any violation.***
- Examples of cultural norms are ***wearing of certain kinds of apparel in certain public and private circumstances, dietary rules, worship behavior, observance of public holidays and public ceremonies*** etc.
- NB: Cultural norms or social rules are the commonly adhered practices in a society that normally do not attract any severe form of punishment or sanction.

4. MORAL LAW

- a general rule of right living; especially, such a rule or group of rules conceived as **universal and unchanging and as having the sanction of God's will, of conscience, of man's moral nature, or of natural justice as revealed to human reason**
- Morally good law **NOT** same as cultural norm – [there would be no way to criticize any cultural norm as being immoral]
- Morally good law **NOT** same as being legal – [then there would have been no way to challenge apartheid law on moral grounds]
- Moral Laws are presumed to be **universal, transcending** ones *culture, religion, constitution or society.*

MORAL LAW

- **Examples .**

- 1.It is morally wrong to steal.
- 2.It is wrong to kill.
- 3.It is morally right to respect other people's views.
- 4.To legalize segregation is morally wrong.

NB: MORAL LAWS ARE ALSO NORMATIVE.

Quotes for reflection.....

- Spend some time to reflect on what some prominent people have said about moral law.....



A just law is a man-made code that squares with the moral law, or the law of God. An unjust law is a code that is out of harmony with the moral law.

— *Martin Luther King* —

AZ QUOTES

Quotes for reflection.....

- Spend some time to reflect on what some prominent people have said about moral law.....



Anatole France

It is almost impossible systematically to constitute a natural moral law. Nature has no principles. She furnishes us with no reason to believe that human life is to be respected. Nature, in her indifference, makes no distinction between good and evil.

AZ QUOTES

Quotes for reflection.....

- Spend some time to reflect on what some prominent people have said about moral law.....



There is a universal moral law, as distinct from a moral code, which consists of certain statements of fact about the nature of man, and by behaving in conformity with which, man may enjoy his true freedom.

— Dorothy L. Sayers —

AZ QUOTES

Quotes for reflection.....

- Spend some time to reflect on what some prominent people have said about moral law.....



Morals — all correct moral laws — derive from the instinct to survive. Moral behavior is survival behavior above the individual level.

(Robert A. Heinlein)

izquotes.com

5. LOGICAL LAW

- **LOGICAL laws** are the principles or **rules for thinking** that are required in order to move from statements that are accepted as true, to further statements which by all means will necessarily also be true since they follow from the premises that were assumed to be true from the outset.
- They guide us in distinguishing ***good reasoning*** from ***bad reasoning***.
- They are **deductive in nature**. Since they guarantee that if your ***starting point(assumptions or premises) are true*** then ***your final conclusion will also be true***.
- *Example: If all As are Bs and every B is a C then every A is a C*
- *Example: the law of excluded middle (or the principle of excluded middle) states that for any proposition, either that proposition is true, or its negation is true.*

6. MATHEMATICAL LAW

WHAT ARE THEY

- These are laws that **regulate** the way *operations in mathematics ought to be done*.
- We have **rules** for *mathematical practices* and **descriptive laws** that *summarize the results of mathematical practice for all time*.

Examples

1. Laws of *addition, subtraction, division, multiplication*. AND
 2. *Never divide by zero, Laws of indices are all general rules of mathematical practices*.
 3. Every even number is the sum of two odd numbers, *is an example of a descriptive law that summarizes the results of mathematical practice for all time*.
- **NB. Mathematical laws are also NORMATIVE.**

7. DIVINE LAW

WHAT IS IT.

- These are laws whose **contents come from a particular religious doctrine.**
- The **authority** of such laws come from a **supreme being**, (*deity, God, god*)
- They are ***prescriptive*** in nature so they are also **NORMATIVE.**
- They are subject to **revelation** as the means by which they are made available to man and can be changed.

EXAMPLES

1. The ten commandments of Christians.
 2. The sharia law of the Muslims.
 3. Some religions practice monogamous marriage while others practice polygamous marriage.
- ***NB DIVINE LAWS are binding only on the practitioners of religion.***

END OF SESSION