

The nature and diversity of rules

(penultimate version)

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Abstract

The paper suggests that the terminological/conceptual apparatus employed in debates on rules within the inferentialist environment as well as in other areas of philosophy needs elaboration and clarification. It argues that within the 'rule-talk' we should carefully distinguish when we speak about rules (norms) understood as social facts (F-rules) and when we speak about rules understood as abstract linguistic entities (L-rules). We should also be aware of the fact that besides a full-fledged existence which can be ascribed to F-rules if a relevant regulative relationship between social subjects has been established, we also need to ascribe another kind of 'existence' (validity) to rules. This kind of relative 'existence' can be ascribed to L-rules which jointly form a normative space. Such space can be inhabited by agents. (The uninhabited exist only in a standby mode - as a SB-system). In its last part, the paper tries to provide a firmer grasp on the often made but rarely examined distinction between explicit and implicit rules.

1. Introduction

In philosophy, as in other disciplines of human inquiry, we witness a kind of terminological flux – some terms/concepts are fading away while others are becoming trendy. Among those terms whose frequency in philosophical debates has grown significantly over the last decades are surely "rule" and "norm" (in their various versions). Of course, debates about rules and norms have traditionally occupied an important place in areas like ethics or philosophy of law but recently these concepts have also moved to center stage in areas such as the philosophy of language or the philosophy of mind. If we were to name one philosopher whose work gave the strongest impetus to this process, Ludwig Wittgenstein would be the obvious candidate. His sketchy yet deep meditations concerning rules and rule following (especially from

Philosophical Investigations - Wittgenstein 1953) have directly or indirectly inspired many prominent philosophers of the analytical bent.

Although numerous scholars follow Wittgenstein in recognizing the key role of rules in the formation of the human world and its various zones,¹ attempts to pin down the meaning(s) associated with the term “rule” in a systematic and comprehensive fashion are scarce. Of course, all competent English speakers understand the word, but they are likely to be in trouble when asked to explain its exact meaning. This is unsurprising - in this respect the word “rule” is not different from words like “bed” or “penalty”. But it is obvious that though our ordinary grasp of the meaning of these words is sufficient for everyday conversation, it may let us down when we face the task of preparing a carpentry catalogue or substantiating a reform of the civil code.

In philosophical debates, the question as to whether we understand each other when using certain words is of specific importance, as philosophers include concepts – meanings associated with the words – among the principal objects of their inquiry. Though reaching a wide consensus concerning the adequate explicating of the meanings of pivotal philosophical terms is close to impossible, investigations which may move us nearer to such a consensus (or at least to a better mutual understanding) are surely worthwhile. This study is an attempt to proceed a few steps in this direction.

The observation that the words “rule” and “norm” bear varied and rather indefinite meanings in English is close to trivial,² and hence it is also not surprising that the mutual

¹ Sometimes, of course, the links to Wittgenstein are not direct. This concerns especially the strong stream of philosophical studies elaborating on the heritage of another distinguished philosopher who pointed to the crucial importance of rules - Wilfrid Sellars; but also, for example, the school of economico-philosophical inquiries originated by Friedrich von Hayek.

² This has been pointed out many times. Von Wright, for example, opens his *Norm and Action* by noting that "the word 'norm' in English and the corresponding word in other languages, is used in many senses and often with an unclear meaning" (von Wright 1963, 1). Boghossian in the opening part of his article about rules stresses that "part of the problem here is that ordinary language is not precise

relationship of the two related concepts is far from clearly established. In the literature which addresses the relevant issues, one of these concepts is usually understood as superordinate. For example, G. H. von Wright in *Norm and Action* (von Wright 1963) conceives the concept of norm as more general.³ Others, like F. A. Hayek (Hayek 1973), J. Raz (Raz 1990) or C. Bicchieri (2005), tend to take the concept of rule as more general and they treat norms as specific types of rules. Obviously, there is no point in trying to decide which terminology is the right one. In this study, I will adhere to the latter convention.

I will try to develop conceptual tools that might help put discussions that focus on rules and norms on a firmer ground and underpin a comprehensive general account of the nature of rules. My intention is to complement (and to some extent rectify) the core analysis of normative concepts proposed by von Wright and point towards a solution to the so called *ontological problem of norms* mentioned in his *Norm and Action*.

It is somewhat surprising that attempts in philosophical literature at a systematic general elucidation of the concept of rule are in short supply.⁴ The concept of rule is often (I am tempted to say "too often") treated as primitive. At the same time, the term "rule" is associated with a surprising number of different characteristics/specifications.⁵ Are there, for example, rules which do not exist or which are not binding for anybody? Are moral rules, legal rules, rules of grammar, rules of logic, rules of games, prudential rules or rules of a wolf

when it comes to the word 'rule' — one can legitimately talk in different ways and so there is a danger of people talking past one another" (Boghossian 2015, 3).

³ Rules, e.g. rules of games, are according to von Wright a standard example of a main type of norm; prescriptions (regulations) issued by an authority and directives (technical norms concerned with means to be used for the sake of achieving a certain end) are other main types of norms (von Wright, 1963, 6-10).

⁴ Boghossian (2015) or Hage (2015) can be seen as attempts to provide such a general account but, under closer examination, we find out that they concentrate their attention on moral rules/norms (Boghossian) or legal rules/norms (Hage) even though they make claims about rules in general.

⁵ We are used to hearing/reading that rules have a certain content, are valid or invalid, explicit or implicit, articulated (written down) or tacit, followed or violated, known, understood or misunderstood, learned, enforced, motivationally effective, applicable, etc.

pack substantially akin to each other in some respect, or are they connected just by a family resemblance or, indeed, are we simply encountering a terminological mismatch? I believe that such questions are worthy of attention.

My account is to a large extent inspired by the analytical approach characteristic of von Wright's foundational book *Norm and Action*. Though the present study is much more limited and less comprehensive than von Wright's classical work, its main goal is similar - to contribute to a fundamental explication of the concepts of rule and norm that isn't bound to any particular discourse (ethical, legal, sociological, linguistic, ethological, etc.) but might serve as a kind of reference point for philosophical debates on rules (in particular, for debates within the inferentialist 'environment').

2. Social norms and the concept of rule

As I have suggested, my aspirations concerning the elucidation of the concepts of rule and norm are limited to the framework of general studies within analytically oriented philosophy. I will thus disregard sociologico-psychological accounts of norms that conceive of them as specific beliefs/perceptions regarding what is expected in a social context⁶ or critical accounts proposing that norms are essentially concepts that are constantly used to control us and to exclude those who are not "normal" enough (c.f. Foucault 1977). I will just frame the discussion by briefly mentioning two philosophical accounts of social norms which, in my view, illustrate the need for a fundamental elucidation of the concept of a rule.

The first of them is the delineation of the concept of a social norm from an influential book by Cristina Bicchieri, *The Grammar of Society* (2005). Social norms in Bicchieri's

⁶ An interesting survey of how different social sciences have approached the study of social norms can be found in Chung & Rimal (2016).

account are informal (uncodified) norms. Necessary and sufficient conditions for a social norm to exist are articulated in the following definition (Bicchieri 2005, 11):⁷

Let R be a *behavioral rule* for situations of type S . We say that R is a social norm in a population P if there exists a sufficiently large subset of the population such that, for each individual i from the subset:

- (i) i knows that a rule R exists and applies to situations of type S ;
- (ii) i prefers to conform to R in situations of type S on the condition that:
- (iii) i believes that a sufficiently large subset of P conforms to R in situations of type S ;
- (iv) i believes that a sufficiently large subset of P expects i to conform to R in situations of type S .

I don't want to analyze this definition here.⁸ I just want turn attention to a point which is easy to overlook, namely that the concept of rule (behavioral rule) is taken for granted in it.

Bicchieri expects her readers to understand what it means that somebody "knows that a rule R exists and applies to situations of type S ".

Though the concept of rule assumes this pivotal role, we don't learn much about the nature of (behavioral) rules in Bicchieri's book. She says, in passing, that rules prescribe a particular course of action for a certain situation or a class of similar situations (Bicchieri, 2005, p. 4), and that "once one adopts a behavioral rule, one follows it without the conscious and systematic assessment of the situation performed in deliberation" (ibid.) before stating that behavior tends to be "guided by *default rules* stored in memory that are cued by

⁷ I present it in a slightly simplified version.

⁸ Its critical discussion can be found in Brennan et al. (2013) or in Peregrin (2014).

contextual stimuli" (p. 5). All this sounds *prima facie* plausible but without a clear clue as to the nature of the special entities called (behavioral) rules, the definition seems to lack firm grounding. I suggest that the strategy that invites the reader to adopt the concept of a (behavioral) rule as an 'unexplained explainer' is too optimistic and that the concept is worth more careful attention.

In Jaroslav Peregrin's *Inferentialism: Why Rules Matter* (Peregrin 2014) the concept of rule plays the central role. Peregrin focuses his attention on rules which shape our social world and our linguistic practices in particular. This specific concern influences the way in which he delineates the concept of rule. "Let us say, as a first approximation," Peregrin proposes, "that a rule is a matter of a certain cluster of interlocking behavioral patterns" (p. 70). In another place he claims:

"Rules are not a matter of merely resonating attitudes, but rather they tend to invoke a superstructure of customized and institutionalized reactions to *improper behavior* ('punishments') as also to *proper* ones ('rewards') that are often wielded in a cooperative manner.... The existence of a rule is thus a matter of the interlocking patterns of attitudes, actions, and reactions of many people." (p. 10)

Peregrin's characterization of rules offers, in my view, a quite plausible account of the most substantial kind of social rules (or, in an alternative terminology, social norms).⁹ He convincingly shows that rules of this kind are fundamental in the sense that their existence is a precondition of existence of other kinds of rules, e.g. of the explicit rules we encounter in systems of law, rules of games or regulations issued by different authorities. It is, however, in my view not acceptable as a general delineation of the concept of a rule. I suggest that if we

⁹ His 'interactive' account substantially differs from those which take social rules (norms) to be essentially *perceptions* of what others do and what they (dis)approve of. (Cialdini & Trost (1998) can serve as an example of such an account of social norms.)

want to get a grasp of the nature of rules we have to take into account rules of different sorts. In particular, I want to argue that it is useful to turn attention to the often neglected rules which we encounter at the social micro-level.

3. L-rules and F-rules

Let us imagine a situation when a mother named Martha tells her son, named Philip: "Philip, never climb up trees if you are wearing your dress uniform!" By her utterance, Martha articulated a rule and - if she succeeded in addressing her son properly and some other conditions have been satisfied - a certain rule has been established by her speech act.

In this case, we don't come across the interlocking patterns of attitudes and the behavioral patterns of many people – only two people are involved - but it is still hard to deny that in this situation a certain rule came into existence: the mother imposed a regulation on her son's behavior.¹⁰ The mechanism for establishing simple rules of this kind is intuitively transparent as we are ready to say that the rule exists in the situation because we assume that a combination of two things occurred: 1) the mother successfully presented a certain general requirement concerning the behavior of her son, and 2) the son recognized that his mother imposed a restriction on his behavior. We can thus say that the mother and the son have been bound by a new relationship – a normative/regulative relationship of a specific kind.¹¹ Of course, in concrete, real life situations it is often difficult to decide whether a certain rule has

¹⁰ Another possibility, of course, is that the rule forbidding Philip to climb trees in his dress uniform already existed, and was just reinforced by the speech act. But let us for simplicity disregard this option.

¹¹ It is worth noting that individuals (social subjects) are also bound by a kind of 'demandatory' relationship in cases when the relevant requirements are not general but require a particular (individual) action ("Pass me the salt!"). Relationships of this kind are (unlike rules) typically transient – they cease to exist by execution of the demanded action or when the period when it could have been reasonably executed passes by.

been set down.¹² I am not here going to address problems associated with this elusiveness (which is, after all, characteristic of most social phenomena). I will instead open up my discussion of the nature of rules by exposing a fundamental ambiguity inherent to the common usage of the word “rule”. The ambiguity almost imperceptibly infiltrates philosophical texts and can also be identified in the brief presentation of our model example.

When I first described the model situation, I said: "By her utterance, the mother articulated a rule and - if she succeeded in addressing her son properly and some other conditions have been satisfied - a certain rule has been established by her speech act". If we read the sentence carefully we notice that, in its latter occurrence, the term “rule” must bear a different meaning than in the former. First the word is used to refer to a certain general guideline of action which is linguistically articulated and then, in the second occurrence, the word “rule” is used to refer to a certain social fact.

I suggest that the two kinds of uses of the word "rule" should be clearly distinguished. Let us begin by focusing on the first one. We talk about rules in this sense when we talk about linguistically articulated regulations of action/behavior. When we, for example, say that the European Council discussed a new rule that should guide the distribution of money from European Solidarity Funds or that some rule is mentioned in an etiquette handbook we clearly speak about rules of this type. We mean various articulated regulations that can be found in written codes and assessed as concerns their clarity, coherency or potential efficiency with respect to achieving goals which the codes are meant to achieve. To make clear that the term "rule" is used in this sense, I propose to speak about *L-rules*. The letter L indicates that we are dealing with linguistic objects. L-rules can be also identified as meanings of sentences which

¹² We tend to presume that only subjects having some authorization or power can successfully form a normative relationship, but it is doubtful whether this should be seen as a general condition. We can, for example, imagine that Philip managed to successfully establish a certain rule (and his mother consistently follows it).

are suited for articulation of general regulations of behavior.¹³ Such sentences can be called *rule sentences*.

Since quite diverse types of sentences are employed for the issuing of different kinds of regulations, it is advisable to distinguish a narrower delineation of rule sentences from a broader one. I propose to speak about *proper rule sentences* when we speak about sentences whose literal meaning is straightforwardly action guiding. Imperative sentences like *Do not smoke* or *Come to visit your grandmother every Sunday* can serve as examples. It might seem tempting to identify proper rule sentences with sentences in the imperative mood but we shouldn't forget that not all imperative sentences are straightforwardly action guiding. Sentences like *Do whatever you want*, *Eat the cake if you like it*, or *If you wish to make the soup thicker add some roux* can serve as examples. It will hence be more adequate to use the denomination *proper rule sentences* only for those imperative sentences which in their standard use are suitable for imposing a general limitation on the behavior of the addressee. Often it may be useful to adopt a broader concept of rule sentences and suppose that the term "rule sentences" also covers other types of expressions commonly used in speech acts whose purpose is to regulate someone's behavior - especially should/ought sentences.¹⁴

In practice, of course, rules are established by utterances of various grammatical forms. We often use sentences in the future indicative (*You will visit the doctor every Thursday*), present indicative (*Patients visit the doctor every Thursday*) or even interrogative

¹³ Some people might perhaps find the choice of the letter "L" pointing to linguistic nature of L-rules misleading. They might argue that meanings are in fact pre-linguistic ideal entities which are only secondarily (by convention) associated with linguistic 'embodiments' – paradigmatically sentences of natural languages. I don't have space here to challenge such a picture. Thus, I can only suggest that those who wish may assume that the disambiguating "L" refers to a language of mind.

¹⁴ The well-known trouble with should/ought sentences (von Wright 1963 calls them *deontic sentences*) is that they are ambiguous. Prescriptively interpreted, they express L-rules; descriptively interpreted, they express (true or false) deontic propositions. This ambiguity can be the source of various misunderstandings. Some of those which arise within deontic logic are discussed in Svoboda (t.a.).

sentences (*Would you be so kind as to visit the doctor every Thursday?*), but it seems inappropriate to broaden the concept of the rule sentence so that it covers any sentence that can, in some circumstances, be used as a means of establishing a rule.¹⁵

Besides the cases when the word "rule" is used for talking about L-rules, the word is often used for talking about certain social facts. When we say that somebody breached the rules of good manners, showed his respect for the rules of fair play or that Sicilian Mafiosos respect certain unwritten rules, we manifestly use the word in this way. I suggest using the term *F-rule* whenever we want to make clear that we use the term "rule" in this sense.

F-rules that give shape to our social environment – rules of morals, legal rules or rules enabling linguistic communication, i.e. rules which tend to form complex systems are naturally the focus of attention of philosophers. But we can, as I have suggested, profit from turning attention to F-rules that are less complex. As we have seen in our example with Martha and Philip, F-rules often come to existence through utterances by which one person addresses another.¹⁶ This is, however not necessarily the case. F-rules can be established by means of non-linguistic actions such as gestures, physical manipulations or by exhibiting a behavior which is presented as a pattern to be followed.

F-rules are important constituents of social reality. What is the nature of these specific entities? Social reality is, I suggest, shaped primarily by different kinds of relations. In this case, we deal with relationships which can be called *regulative*. In our model example, one

¹⁵ The concept of a rule sentence is related to von Wright's concept of norm-formulation (see von Wright 1963, 93). In his account, however, a norm-formulation is identified with "the sign or symbol (the words) used in enunciating (formulating) the norm" and so, for example, a traffic-light can serve as a norm-formulation. In this respect, von Wright's concept of norm-formulation is a looser concept than my concept of rule sentence.

¹⁶ Here I use the term "utterance" broadly - written declarations or regulations carried out in a specific, institutionalized way (e.g. published in a codex) count as utterances. Of course, not all cases when a rule sentence is uttered result in establishing an F-rule – our Martha might, for example, pronounce the sentence too quietly to be understood (or even noticed) by Philip, she might say it during a kind of "let's pretend" game or her utterance could be misplaced (if, let's say, Philip is only a toddler).

person - the mother - tries to affect the behavior of another person - her son - by a speech act that is most straightforwardly suited for this purpose and she is, according to our assumption, successful. The success does not consist in the fact that she managed to regulate Philip's behavior (this kind of success can only be assessed in the long run) but in the fact that she has managed to put a regulative pressure on her son which is to discourage him from climbing trees while wearing a dress uniform.

We can generally say that a *regulative relationship* between two social subjects **S1** and **S2** is established when **S1** has successfully manifested its effort to regulate the behavior of **S2** – make him abstain from a certain kind of action or to act in a certain way (in a given situation). The subject who is in the position of being the authority of the regulative relationship plays, in the context, the role of *the Prescriber* while the subject whose behavior is (to be) 'shaped' by the demand of the Prescriber plays the role of *the Doer*.¹⁷ We can generally say that the relationship tends to be robust if the Prescriber is capable of efficiently sanctioning the breaching of the rule while, in other cases, it is easily canceled. Normally, adoption of the role of the Prescriber is connected with accepting a certain measure of responsibility for the 'rule following behavior' of the Doer (even though the responsibility may be hard to circumscribe).

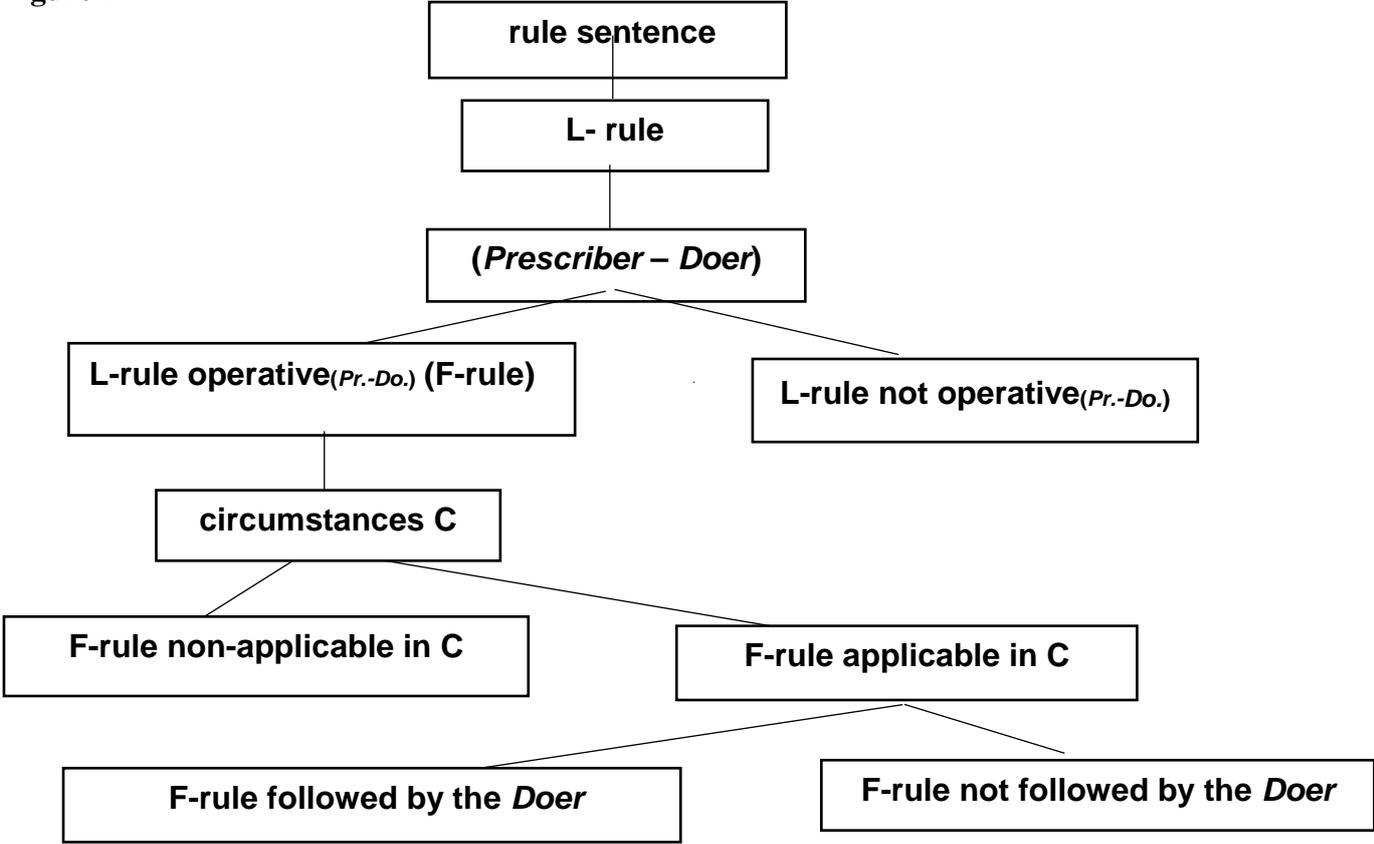
Let us now return to L-rules for a moment. It is obvious that the same L-rule can be expressed by different rule sentences and the sentences can vary in their form or/and use of vocabulary. I suggest calling the rule sentences, whose communicatively successful articulation in common (non-specific) circumstances would lead to the establishing of the

¹⁷ This terminology is my modification of the terminology introduced by David Lewis who distinguishes the roles of the Master and the Slave in his discussion of scorekeeping in deontic language games (cf. Lewis 1979). It is worth noting that the roles needn't always be divided. In the specific case of *autonomous* F-rules the same subject can simultaneously play both the role of the Prescriber and the role of the Doer – for example, if one imposes on herself the duty to abstain from drinking any alcoholic beverages.

same F-rule *functionally equivalent*. Adopting the opposite perspective we can say that different functionally equivalent rule sentences represent alternative formulations of the same L-rule. L-rules can thus be understood as prescriptive versions/counterparts of propositions.¹⁸ Unlike propositions, which are typically seen as truth value apt by definition, L-rules cannot be reasonably considered as true or false.

The picture I have outlined while building up the terminology can be presented in the form of the following scheme:

Figure 1



¹⁸ If a proposition is understood as "that which two sentences in different languages must have in common in order to be correct translations each of the other" (Church, 1956, 25), then L-rules may be seen as that which some *imperative* sentences in different languages have in common.

According to this scheme any L-rule (expressed by a rule sentence) can be confronted with any social framework formed by an ordered pair consisting of two agents. We can then decide – providing that we have the relevant knowledge - whether the L-rule is operative within the framework. The L-rule is operative if and only if the agents are bound by the relevant regulative relationship (the relevant F-rule exists).¹⁹ Any F-rule (L-rule operative within a Prescriber-Doer framework) then can be, depending on circumstances, applicable or not. If it is applicable then we can say – providing that we have the relevant knowledge – whether it is followed or not followed by the Doer.²⁰ I believe that this schematic picture appears quite plausible if we limit attention on the relatively simple case of micro-level rules, but is it sustainable as a general prism through which we may view rules of different kinds? I want to suggest that it is, though with some provisos.

In modern societies diverse kinds of social subjects are able to get bound by regulative relationships – to occupy the positions of a Prescriber or a Doer. A substantial feature of each subject (social body) that can occupy such a position is the ability to function as an agent. Ascribing the status of an agent to a person or a social body can, unsurprisingly, be quite controversial. The status is sometimes not hard-set, but rather ascribed to different individuals and social bodies in different degrees and relative to circumstances. For example, children only gradually gain the ability to 'operate' as fully-fledged agents - Prescribers or Doers.

The states, as well as the different social institutions existing within states, assume the role of Prescribers, establishing many important F-rules which are crucial for the functioning of modern societies. Such institutional social subjects typically establish F-rules which are not

¹⁹ Of course, often the relevant F-rule gets established by an utterance of a certain rule sentence – perhaps one which straightforwardly expresses the L-rule in question but possibly one that is more general or more complex.

²⁰ Some F-rules are *categorical* – applicable in any circumstances. In situations in which a certain F-rule exists but the conditions of its application do not arise, we can say that the F-rule is *trivially followed*.

aimed at a particular individual (or a super-individual social body) but which are general - any agent which satisfies a certain condition (is, e.g. a citizen, a student of a school, a visitor to a gallery) is supposed to occupy the role of the Doer. Thus, we often have an institutional Prescriber on the one hand and individual Doers on the other. We thus can say that a number of parallel regulative relations (F-rules) are established by the utterance which brought such F-rules to existence. Alternatively, it can be convenient to talk about one F-rule with a single Prescriber and a collective Doer (the citizens, the pupils, the visitors, etc.). It is, however, important to keep in mind that members of the collective typically act as autonomous agents.²¹ Actions of institutional or collective subjects have their peculiar features which I am not going to discuss here.²²

Generally, I suggest employing the term “norm” to designate social F-rules which regulate certain activities in the whole (sub)society. Norms of this kind typically have a 'super-individual' Prescriber and usually form precisely or less precisely delineated systems. As the distinguishing of interwoven norms can be very difficult, it may sometimes be more natural to view the whole normative system as a single, very complex F-rule. The existence of this F-rule then substantiates claims to the effect that different L-rules are operative (in the given context). This allows for alternative (partial) articulations of such complex normative systems.

4. Normative spaces and relative validity of L-rules

Let us now turn to one more example which should help us get a grasp on another aspect of the common (and professional) talk of rules. Suppose that Martha invented a new card game.

²¹ N. Rescher distinguishes cases when a certain command is addressed to one group *collectively* and a situation when it is addressed *distributively* (Rescher 1966, Chap. I).

²² Searle (1990), Tuomela (1995), and Pettit and List (2011) deal with the issues of decision making and actions of 'super-individual' subjects.

The invention consists in setting down a certain collection of L-rules which are formulated by a set of natural language sentences. The L-rules jointly decide how the game starts, what the players are supposed (allowed) to do in its different stages, and who wins and who loses.²³ If Martha has managed to devise a viable game, she has created a ready-made normative space which can be entered by people who decide to play. The game at the point of its invention does not exist as a social phenomenon, but Martha's invention still has in a way changed the world. A new game is ready to be played and different people can, under some conditions, enter the normative space created by Martha. We can say that the normative space of the game 'exists' in a 'standby mode' - *SB-exists*.²⁴ We can then say that a certain L-rule is valid within a certain *SB-existing normative space (SB-system)*, while another is not. To some extent the situation is analogous to the case depicted in Figure 1. This time we confront an L-rule not with a normative context formed by a couple of agents but with a certain potential normative space. But even if we conclude that the L-rule is valid within the given SB-system (is relatively valid), the question as to whether it is applicable or followed do not arise. These questions arise only when some agents enter the space – when the relevant L-rules get 'actualized' (operative). Whenever people enter such a space (begin to play, for example, Martha's game), a network of F-rules – a part of a social reality - is temporarily established. The players assume both the role of the Doer who is bound by the F-rules and of the Prescriber who requires other players to respect them.²⁵ People who engage in playing

²³ This last rule has a specific status. It is a rule that cannot be followed within the game but only on the meta-level. Put very simply – those who take part in the game are bound to aim at winning. If they manifestly break this meta-rule they can be said to spoil the game and may be punished for that (though not within the game).

²⁴ It should be clear that SB-existence is different from Meinong's subsistence. The difference is analogous to one between musical pieces that have been composed and those that only might be composed.

²⁵ We can imagine that a further authority (also) assumes the role of the Prescriber. For example, Martha can supervise the players. In cases of games which are to a certain extent 'institutionalized', referees or organizers supervise the game (uphold the applicable F-rules). Thus, they assume the role of the principal Prescriber. This, however, doesn't imply that regulative relationships among the

Martha's game – similarly as people who engage in playing chess or basketball – together create a piece of social reality. (Of course, if nobody wants to play the game the ready-made normative space stays idle.)

Appearance of human languages opened the possibility of setting versatile normative spaces by means of L-rules expressed by rule sentences. The SB-existence of the systems opens the possibility that agents enter quite complex systems of regulative relationships in one fell swoop. Our world is crammed full of different kinds of ready-made normative spaces, most of which, at least from time to time, get 'materialized' in complex networks of actual regulative relationships among agents. Companies, sport clubs or monastic orders tend to form their own normative spaces.

It may be useful to distinguish between two kinds of SB-systems: 1) SB-systems prepared to guide behavior within an independently existing social space, and 2) SB-systems determining (establishing) a certain (potential) social space. A code determining what visitors of a forthcoming village festival are allowed and/or obliged to do can serve as an example of the first kind of SB-system. We assume that the social environment that gets formed by people who will take part in the festival will exist independently of the specific SB-system set down by the organizers. The festival would presumably take place even if no SB-system gets proposed and adopted.²⁶ On the other hand, some (potential) social spaces, those formed for example by systems of L-rules governing games such as chess, can be said to be formed by *constitutive rules* – relatively valid L-rules that together constitute a specific (potential)

players are unessential, what is primarily concentrated in hands of the referee (organizer) is the control over the penalizing of transgressions against the F-rules.

²⁶ In fact, the two cases deserve to be distinguished as L-rules pertaining to an SB-system which has just been formed and proposed are apparently valid in a somewhat weaker sense than those pertaining to an SB-system which was officially approved by the organizers of the festival (even if the festival is only to take place in the future). Let us, however, keep things as simple as possible here.

practice. L-rules valid within an SB-system of the first (village festival) kind can then be called *regulative*.²⁷

The game of chess provides an example of a system of L-rules which have been intentionally formed and fixed (though the SB-system received its present shape over a long period of time). We can say that the intentional rule-creating activity preceded the rule-following activity. In other cases, the normative spaces which can be from a certain perspective viewed as SB-systems have grown from social practice. They were not designed but shaped within complex processes of social interaction which fixed them primarily as systems of F-rules which even don't have to be explicitly articulated.²⁸ I am going to say more about this in the following section.

5. Explicit and implicit F-rules

Though situations when a regulative relationship is set by an utterance of a certain human or institutional agent represent the most transparent cases of establishing F-rules, they are just one among various courses of events through which F-rules get established. Regulative relationships are commonly established by a concurrence of corrective reactions of different kinds. Typically, the 'negative' corrective reactions – admonitions or penalizations of different kinds -- are easier to discern, but 'positive' corrective reactions like approvals, rewards or instructive examples are not less important. In everyday life, these reactions are typically interpreted as intentional manifestations of certain attitudes, but they are often spontaneous, i.e. not (fully) intentional.

Parents typically regulate the actions of their small children automatically. They, for example, continuously teach their children to speak by rectifying the ways in which they

²⁷ The distinction between constitutive rules and regulative rules is discussed, for example, in Searle (1969). From our perspective it is worth pointing out that L-rules valid within a certain 'regulative' SB-system don't have to ever regulate any actual behavior (though such a situation is not common).

²⁸ Processes of this kind are vividly depicted in Peregrin (2014)

express themselves – they correct them, formulate the right statements or questions on their behalf, give them different hints as to what to say or to suggest what “we do not say”. They spontaneously assume the position of the Prescriber and demand that their child observes F-rules (typically articulable as L-rules) governing the natural language that is to become her/his mother tongue. It is quite unessential what their motivation might be; whether they deliberately want their children to speak correctly (to take part in the 'game' as competent players), whether they would say that they do it in the interest of the child or whether they behave without a rational motive (their educational/corrective reactions are instinctive).

It is worth noticing that we can view languages from two perspectives – as potential normative spaces (SB-systems) or as actual normative spaces (systems of F-rules). In the case of a living language, the second perspective is primary as the practice using the language is ubiquitous and the regulative relationships get continuously manifested in corrective reactions of the agents (speakers of the language). In the case of dead or artificial languages, the first perspective seems somewhat more natural.

What has been said about the different ways in which F-rules can originate allows us to clearly articulate a further terminological distinction: F-rules can be schematically divided into two categories – *explicit* rules and *implicit* rules. Our model F-rule concerning Philip's tree climbing can serve as a paradigmatic example of an explicit F-rule. Implicit F-rules are more difficult to pin down. F-rules of this sort are not established by speech acts consisting in an utterance of a rule sentence. Imagine that in Martha's family the adults have almost unconsciously established certain F-rules concerning their sitting around the family table. If they have made Philip reseal himself whenever he has sat in the place that his father likes to sit, and the father does not sit down until 'his place' is vacated, Philip is sure to understand that his parents demand that he doesn't sit there during family dinners. Similarly, they can teach him not to speak out loud in church simply by lowering their voices whenever they enter the

church and by reacting with gestures of disapproval when he raises his voice. In this way, they may establish an implicit F-rule.²⁹

We also encounter both explicit and implicit F-rules on the macro-level of developed societies.³⁰ Typically, both kinds of F-rules are interwoven into networks of different complexities. Individuals belonging to the societies normally play – constantly or under some conditions – the roles of the Doers within different regulative relationships establishing such F-rules. In the case of explicit F-rules, different institutions normally play the role of the Prescriber. Legal norms are the paradigmatic example here.³¹ In the case of implicit social F-rules (norms), the individual agents typically occupy the role of the Doers but they also, as members of the society, jointly play the role of the collective Prescriber.

From what has been said it should be clear that the basic feature that distinguishes explicit F-rules from implicit ones concerns their genesis – the history of their establishing and reinforcing. It is not uncommon that F-rules which originated as implicit get, at some point, articulated in the form of an explicitly voiced requirement (e.g. Martha says at some

²⁹ The fact that an F-rule is implicit, of course, doesn't preclude that it can serve as the truth-maker for the claim that a certain L-rule is operative/valid. We should be careful to distinguish *implicit* F-rules from F-rules which are *implied* by L-rules that were explicitly promulgated (we could speak about *explicitly valid* L-rules). If Martha, for example, addresses Philip with the command "Visit your granny every Sunday!" and "Whenever you are visiting your granny, bring her some flowers!" we can say that the two L-rules entail the L-rule "Bring your granny some flowers every Sunday!" and hence that there exists the F-rule that might be directly introduced by a 'promulgation' of the last rule sentence. This F-rule is, however, not implicit in the sense that I have tried to pin down by the just proposed terminological convention. I thus propose to distinguish between *implicit* F-rules and *implied* L-rules.

³⁰ Von Wright calls such implicit F-rules *customs* and says that they are "acquired by the community in the course of its history, and imposed on its members rather than acquired by them individually" (von Wright, 1963, 8).

³¹ It is, nevertheless, worth noting that the explicitness of legal rules is not as straightforward as one might expect. Legal codes are often formulated not by sentences which provide straightforward guidelines for action (rule sentences) but use, for example, sentences speaking about sanctions that will be introduced if some kind action takes place or definitions of different kinds. Thus, saying which L-rules are valid in a certain code may require a non-trivial interpretative effort.

point to Philip, *You ought to speak quietly when you are in a church*). Though such an explicit articulation doesn't establish a new F-rule, it is capable of changing its 'status'.

Implicit F-rules come into being in various ways – they are typically rooted in habitual practices and stereotypes which have become perceived as patterns to be imitated (and so deviant behavior tends to evoke corrective reactions). These F-rules are, so to say, “self-supporting” – we learn to follow them, as Wittgenstein says, blindly (cf. Wittgenstein, 1953). The task of individuating and 'explicitating' the F-rules embedded in complex systems of implicit F-rules may turn out to be very difficult. One of the reasons is that the mastering of the relevant rule-governed practice tends to mostly be a matter of practical know how than a kind of theoretical knowledge. (Folk dances can perhaps serve as a good example here.)³²

I believe that distinguishing between explicit and implicit F-rules is legitimate and important. In some cases, the categorization is unproblematic. It is for example clear that in communities of chimpanzees all F-rules are implicit³³ and that legal F-rules or the mentioned F-rule concerning Philip's tree climbing are clearly explicit. But, in other cases, the situation may be quite indeterminate. One reason is that the process of the genesis of F-rules is often complex and it may be quite unclear which corrective speech act should be seen just as a 'hint' and which is to be regarded as an explicit articulation of an F-rule (though perhaps only a partial one). Another reason is that it is in many cases natural to view F-rules as having one 'source' (Prescriber) but many addressees (Doers). If we adopt this picture then there, for example, arises a possibility that the same F-rule can be perceived as implicit by some

³² What has been said suggests that the scheme presented in Figure I needn't be generally applicable. It can, nevertheless, be generalized: the two topmost boxes (containing "rule sentences" and "L-rules") may be replaced by one box containing text "behavioral pattern". It is, of course, difficult to specify the concept of a behavioral pattern. The human practice of recognizing such patterns is much more advanced than theorizing about them.

³³ Of course, some might doubt whether communities of chimpanzees are capable of establishing any relationships that should be classified as F-rules.

addressees and as explicit by other ones, depending on how they have become acquainted with it. For such reasons we should be careful and not put too much weight on the distinction.

6. Conclusion

The conceptual and terminological distinctions provided in this article point in the direction of a relatively simple and at the same time systematic solution to the so called ontological problem of norms which is discussed by von Wright in his classic work *Norm and Action*.³⁴

Rules (norms) exist in (at least) two senses. In the case of F-rules, we can talk about a full-fledged existence – F-rules are social facts established by regulative relationships among agents. In the case of SB-systems, it makes sense to talk about the weak (relative) 'existence' of L-rules. These rules can be (relatively) valid but needn't be actually binding for anybody – the relevant normative spaces needn't be actually 'inhabited' by agents.

I believe that the account of rules/norms outlined in this article can be regarded as an elaboration of von Wright's general conception according to which an utterance of certain sentences can result in the establishment of a certain relationship³⁵ and the given norm is valid for the time of the existence of the relationship (cf. von Wright 1963, Chap. VII).

Terminology provided here allows us to avoid – especially thanks to the distinction between rule sentences, L-rules, relatively valid L-rules and F-rules – some ambiguities, which are connected with von Wright's use of terms "norm", "rule" or "command". Moreover, the framework outlined in this article allows one to address the ontological problem more comprehensively than von Wright's framework. Although von Wright uses the term "norm" as an umbrella designation which includes rules, prescriptions, customs and directives, he

³⁴ "The existence of a norm is a fact. The truth-grounds of normative statements and of norm-propositions are thus certain facts. In the facts which make such statements and propositions true lies the reality of norms. The problem of the nature of these facts can therefore conveniently be called the ontological problem of norms." (von Wright 1963, 106)

³⁵ Von Wright speaks about a "relationship under norm" (von Wright, 1963, Chap. VII).

discusses the ontological problems only in connection with prescriptions (which would correspond to our explicit F-rules).

I also believe that the present framework might contribute to a clarity of semantic and logical studies concerning rules/norms/commands.³⁶ Within these studies, for example, we come across two different 'semantic values' associated with deontic sentences/propositions – they are said to be valid (in force) or invalid on the one hand³⁷ and satisfied or violated (by an agent) on the other hand. From the perspective outlined here, however, these 'values' should be ascribed to somewhat different objects – only F-rules (norms) can be satisfied/followed and only L-rules can be meaningfully said to be **valid/operative**.³⁸

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³⁶ Concerning the general question of the nature of the rules (laws) of logic which I have had to omit here due to a lack of space, I can refer the reader to Peregrin & Svoboda (2017).

³⁷ Von Wright (1963, 196) summarizes this picture: "Statements of facts (propositions) are true or false; norms, it is said, are not true or false but valid or invalid."

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