

1. Introduction

By way of introduction I stated that, and gave an outline of the manner in which, I lay down the concepts of the fundamental proposition types *in order to bring into focus* loci in actually occurring language and argumentation which experience has shown it to be important to determine when one is assessing the tenability of propositions, and thus when one is analysing dis/agreement (sections I 4 cf. 2–3, above): It is other facts that are relevant when one is to test the tenability of a definition than when one is to test the tenability of a characterisation; and it is other criteria that are relevant when one is to test the tenability of a descriptive proposition than when one is to test the tenability of a normative proposition.

As is apparent from the account of the fundamental proposition types (sections II A, cf. B–D and F–G, above), this bringing into focus takes place in *two ways*. First, it takes place through a combination of an element *per definitionem*, through the concepts of the fundamental proposition types, *and* an element *per* actually occurring language and argumentation, through demonstration of the basis in reality of the concepts: *Per definitionem* other facts are relevant when one is to test the tenability of a definition than when one is to test the tenability of a characterisation, *and* this conceptualisation captures a central feature of actually occurring language and argumentation (sections II A 2 (1), (3) and (4), cf. B, C and G, above).

Secondly, this bringing into focus takes place *per actually occurring* language and argumentation, through demonstration of connections existing there between the fundamental proposition types and essential loci in the tenability assessment: A large part of the question of what criteria are relevant in the tenability assessment, is not answered by the concepts of the fundamental proposition types. One must instead go to actually occurring language and argumentation and see what connections have been established there between the proposition types and tenability criteria. *This* is the subject area of the present Chapter III.

I have thus defined the concept of ‘normative proposition’ through a denotation specification and *not* laid down particular criteria for the tenability assessment as concept criteria (section II A 5 (2)(a) above), either positively or negatively; the question of whether normative propositions can be un/true I also keep outside the definition (section II A 5 (2)(b) above). And I have defined the concept of ‘descriptive proposition’ as “propositions of which one can say that they are true or untrue, and which purport to say something about a reality otherwise (beyond the proposition)” (section II A 5 (1) above); this is *not* an obstacle to also other criteria than the truth criterion in fact being ascribed weight in the setting up of and choice between descriptive propositions.

CHAPTER III

Within the stated subject area, I shall concentrate on two topics which in my opinion deserve greater attention than they are normally given: In section 2 below some tenability criteria for *normative definitions* are refined and systematised, criteria that in the literature can often only be traced through hints and scattered occurrences. And in section 3 below I map the factual significance of other criteria than the truth criterion in the setting up of and choice between *descriptive characterisations*. – These two discussions also include *lawyers' propositions de lege lata*. In the case of these propositions, however, the tenability assessment is *less surveyable* than in the case of the fundamental proposition types seen by themselves. By way of conclusion I point out causes of this, and how the assessment of tenability in the case of propositions de lege lata requires that one combine the tenability criteria for the individual fundamental proposition types (section 4 below).

The *main aim* is the same as in the work otherwise (Chapter I above): to demonstrate, and to create an awareness of, the existence, content and factual significance of a specific critically reflexive form (I 4–6); and thereby, to demonstrate, and to create an awareness of, the factual significance of analysis of dis/agreement on the basis of this critically reflexive form.

2. Criteria that are used in the setting up of and choice between normative definitions

2.1. Point of departure: A more complex evaluation than in the case of descriptive definitions. Aim: A mapping of certain general features of the motive situation

In the case of descriptive definitions the truth criterion is the dominant criterion.¹ In the case of normative definitions a more complex evaluation is practised: In actually occurring analysis and argumentation it is not one criterion, but a *multiplicity of criteria* that motivate the choice.

Given an informative level of concretisation, space would not permit an account of *all* types of consideration that motivate us in the setting up of and choice between normative definitions. However, it is of importance to the present work to get *farther* than statements that concept determinations are a “question of expediency”, or the like (section 2.2.3 below): The setting up of and choice between normative definitions is an action type with a certain inner diversity. Cognition of this diversity contributes to shedding light on the system character and dynamics of definition activity formulated in everyday language, and more generally, of the critically reflexive form that constitutes the perspective and topic of the present work. – This is the background to the following mapping of *certain general features* of the motive situation.

In the more detailed account I shall divide my discussion according to whether the criteria *concern* the structuring, the naming or the coupling of area and name (sections 2.2–2.4).

The diversity of criteria leads to constellations of heterogeneous criteria pulling in different directions. This necessitates weighings and balancings – *in so far as* one consciously reflects on choices of structuring or naming, which is certainly not always the case: *custom and chance* also play a part (section 2.5 below).

Some of the criteria can be termed “*internal*”, because and in the sense that they represent desired ends that the definer can achieve by his own efforts, independently of other people. Examples are desires for freedom from contradiction

¹ In the case of descriptive characterisations, on the other hand, the truth criterion gets more competition from other criteria, see section 3 below.

<http://www.springer.com/978-1-4020-1490-1>

Analysis of Dis/agreement - with particular reference to
Law and Legal Theory

Eng, S.

2003, XXI, 610 p., Hardcover

ISBN: 978-1-4020-1490-1