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PRAGMATIC AMBIGUITY: THE THETIC FUNCTION OF MODALITY

Bo on rzekł—i stało się,
On rozkazał—i stanęło.

For he spoke, and it was *done*;
he commanded, and it stood fast.
Psalm 33:6

Im Anfang war die Tat.
Johann Wolfgang von Goethe

Abstract

The aim of this paper is to present an overview of the pragmatic aspects of ambiguity present in deontic sentences, which may have three pragmatic functions: a prescriptive or a descriptive or a constitutive function. This type of ambiguity is investigated on the lexical, phrasal, and sentential level. The discussion focuses on the deontic constructions of the German verb *sollen* and the English *shall* as they are used in legal texts. It also includes comments on the thetic function of the Latin imperative mood and the subjunctive mood.

Keywords

modality, deonticity, speech act, mood, ambiguity, pragmatics

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1. Ambiguity of ‘ambiguity’: ambiguity of deontic sentences vs. ambiguity of deontic linguistic forms (modal verbs and verbal moods).

1.1. Pragmatic ambiguity of deontic sentences

The pragmatic ambiguity of deontic sentences is a very well known phenomenon in speech acts theory.¹ This phenomenon has been isolated by the German logician Christoph Sigwart [1830-1904]. Deontic sentences (the “ought”-sentences) are subject to a double interpretation: they may be used to prescribe norms (prescriptive deontic sentences) or they may be used to describe norms (descriptive deontic sentences).

The thesis of the pragmatic ambiguity of a deontic sentence is developed independently of Sigwart by the Swedish philosopher Ingemar Hedenius [1908-1982].

Hedenius’s distinction (1941) between *äkta rättssatser* (“authentic legal sentences”) and *oäkta rättssättser* (“non-authentic legal sentences”) is the starting point of Georg Henrik von Wright’s interpretation of deontic logic (1963). In particular, G. H. von Wright [1916-2003] introduces the paradigm: “descriptively interpreted deontic sentence” vs. “prescriptively interpreted deontic sentence.” G. H. von Wright writes:

The deontic sentences of ordinary language exhibit a characteristic ambiguity. Tokens of the same type are used sometimes to enunciate a prescription (*i.e.*, to enjoin, permit or prohibit a certain action), sometimes again to express a proposition to the effect that *there is* a prescription enjoining or permitting or prohibiting a certain action. (G. H. von Wright 1963: 105)

1.2. Pragmatic ambiguity of deontic linguistic forms

At a different level, a similar phenomenon of ambiguity in deontic language is to be found in many deontic linguistic forms. That is to say, many *prima facie* linguistic deontic forms are subject to a double interpretation.

This pragmatic ambiguity of *prima facie* deontic linguistic forms has been deeply explored by the German philosopher Herbert Spiegelberg [Straßburg/Strasbourg, 1904-St. Louis (U.S.A), 1990] in his deontic trilogy: *Gesetz und Sittengesetz*, 1935; *Antirelativismus*, 1935; *Sollen und Dürfen*, 1937.

He seems to limit himself to analyzing the ambivalence of deontic linguistic

¹ Cf. *Théorie des actes de langage, éthique et droit* (edited by Paul Amselek), 1986.

forms rather than considering the ambivalence of whole sentences. One might say that he remains below the threshold of the sentence.

1.3. Pragmatic ambiguity of *modal verbs* vs. pragmatic ambiguity of *verbal moods*

Pragmatic ambiguity can affect both verbs and moods, for example:

- (i) the German modal verb ‘sollen’;
- (ii) the English modal verb ‘shall’;
- (iii) the Latin imperative mood;
- (iv) the Latin subjunctive mood.

These four *prima facie* deontic linguistic forms can have not only a deontic *sense*, but also a *thetic function*, i.e. they can be used to constitute, to pose, and to create a non pre-existing state of affairs.

2. Pragmatic ambiguity of modal verbs

2.1. The thetic function of the German modal verb ‘sollen’.

2.1.1. The paradigm thetic vs. deontic.

The German modal verb ‘sollen’ (which occurs in terms like “Sollnorm,” “Sollsatz,” “Sollsatzlogik,” “Sollgeltung,” “Sollverhalt,” “Sollsachverhalt”) has not only a *deontic* sense, but also a *thetic* function (under the interpretation that sense is a semantic notion, while function is a pragmatic one). For instance, in sentences like:

- (1) “Buchstabe ‘S’ *soll* das Satzsubjekt bedeuten”

the verbal form *soll* has the function of constituting (“zum Bestehen bringen”) a state of affairs:

soll hat die Funktion, einen Sachverhalt zum Bestehen zu bringen.
(Spiegelberg 1935: 74; 1958: 244).

Among sentences in which *sollen* is used in a thetic function, there are, e.g.:

- (2) Zwei Aussageformen *A* und *B* sollen *äquivalent* heißen, wenn “ $A \leftrightarrow B$ ” allgemeingültig ist.²
- (3) Spigel der sachsen *sal* dis buch sin genant.³
- (4) Das soll jetzt ein Haus sein. (In einem Spiel.)⁴

2.1.2. Truth and validity

2.1.2.1. Theticity and truth

Sentences in which *sollen* is used in a thetic function have a semantic peculiarity: they are non-apophantic sentences. Spiegelberg writes:

der ausgedrückte Gedanke erhebt keinen Anspruch auf Wahrheit, auf Deckung des Behaupteten mit einem tatsächlichen Sachverhalt.

(Spiegelberg 1935: 74; 1958: 244)⁵

2.1.2.2. Theticity and validity

According to Spiegelberg, the paradigm case of sentences in which *sollen* has a thetic function is the legislative sentences. In his own words:

Noch klarer ist der Fall der normativen Festsetzung, besonders in der Form eines statuierenden Gesetzes. Denn eine solche Festsetzung entwirft nicht nur einen eigenartigen Sachverhalt, eine “Ordnung” oder Anordnung, sondern sie erteilt ihm zugleich eine eigentümliche Festigkeit, eine Seinsart die häufig auch als “*Geltung*” bezeichnet wird.

(Spiegelberg 1935: 74; 1958: 244)⁶

² David Hilbert & Wilhelm Ackermann, *Grundzüge der theoretischen Logik*, 1959. Cf. Amadeo Giovanni Conte, *Ermeneutica dell’ambiguità*, 1998; Paolo Di Lucia, *L’universale della promessa*, 1997; Paolo Di Lucia, *Sollen in Herbert Spiegelberg*, 2000.

³ Eike von Repgow, *Sachsenspiegel*, Reimvorrede, Verse 179-180 (*Quedlinburger Handschrift*, 1966, p. 12).

⁴ Ludwig Wittgenstein, *Bemerkungen über die Philosophie der Psychologie*, 1980, Band II, § 535, 95.

⁵ English translation: “The expressed thought doesn’t make a claim to being true, of correspondence of the affirmed state of affairs to a real state of affairs.”

⁶ English translation: “Even clearer is the case of a normative statuition [*Festsatzung*], particularly of a statutory regulations. A normative statuition [*Festsatzung*], indeed, doesn’t project a peculiar state of affairs (an order), but attribute to a state of affairs a way of existence which is called in German ‘*Geltung*’.”

2.2. Thethetic function of the English modal verb *shall*

2.2.1. Deontic sense of *shall* vs. thethetic function of *shall* in Herbert Spiegelberg

The phenomenon of the pragmatic ambiguity occurs in the case of other linguistic forms which are *prima facie* deontic. In particular: the modal English verb '*shall*' has not only a 'deontic sense' but also a 'thetic function'. It has a deontic sense in sentences like:

(5) Thou *shalt* not kill,

whereas it has a thethetic function in sentences like:

(6) All legislative powers *shall* be invested in Congress.

The idea of a thethetic function of the English verb *shall* was formulated by Spiegelberg. In his words:

The shall-sentences, characteristic of all statutory regulations, set forth an order in which the referents of the subject and predicate are put into a new relationship, not yet determined by their natures: it takes the "shall" to bring it about. It "fixes" it by bestowing on it a certain artificial *stability*. [...] Without such an *establishment* this relation does not exist. It is the special act of ordering that *establishes* such an order.
(Spiegelberg 1935: 74; 1958: 244)

2.2.2. Deontic sense of *shall* vs. thethetic function of *shall* in Elmer A. Driedger

The semiotic status of shall-sentences is discussed in jurisprudence by Elmer A. Driedger [1913-1985]. Let us consider the sentence:

(7) There shall be a corporation.

According to Driedger, the *shall*-sentences form a paradigm case of a "creative shall", in which *shall* is used as a "non-obligatory auxiliary". In Driedger's own words,

this kind of a provision does not have continuing operation, and the present tense is therefore not suitable. It operates to *create* something the moment the words are spoken, and its force is then spent. The modern tendency, however, is to employ another expression, as, for example: "There is hereby established a corporation"
(Driedger 1976: 33).

3. Pragmatic ambiguity of verbal moods.

3.1. The thetic function of the Latin imperative mood.

It is worth noting that the Latin future imperative mood has not only a *deontic sense* in sentences like:

(8) *Estote parati,*

but also a *thetic function* in sentences such as:

(9) *Uti lingua nuncupassit, ita jus esto*⁷

(10) *Sacer esto,*

(11) *Dis sacer esto*

and in sentences like:

(12) *Heres esto.*

According to Spiegelberg, the Latin future imperative, which is used in legislative texts, has two semantic peculiarities: non-deonticity and non-agentivity. In his own words:

Vgl. z. B. die Zwölftafelgesetze ('uti lingua nuncupassit, ita jus esto', 'dis sacer esto', 'se fraude esto' oder 'heres esto' in Testamenten); man beachte auch, daß in diesen Beispielen unmittelbar keinerlei Verhaltenspflichten festgesetzt werden; schon deswegen kann es hier nicht um Befehle handeln. (Spiegelberg 1935: 74, n.1)⁸

3.2. The thetic function of the Latin subjunctive mood.

The Latin subjunctive mood has not only a deontic sense (*conjunctivus cohortativus*) in sentences like:

(13) *Gaudeamus igitur,*

⁷ Ancient Roman Twelve Tables Code. Cfr. Paolo Di Lucia, *Normatività. Diritto linguaggio azione*, 2003, p. 61.

⁸ English translation: "Cf. for instance, the Twelve Tables ('uti lingua nuncupassit, ita jus esto', 'dis sacer esto', 'se fraude esto' or 'heres esto' in wills); these statutions don't set forth a behavior-duty. Therefore they are no commands."

(14) *Alterius non sit qui suus esse potest,*

but also a thetic function (*conjunctivus constitutivus*) in sentences like:

(15) *Anathema sit,*

(16) *Fiat lux.*

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