

Towards a Hybrid Theory of Legal Statements

Abstract

This paper develops a novel hybrid theory of legal statements that reconciles their dual cognitive and practical nature, arguing that they express both beliefs and desire-like attitudes. Through systematic analysis, it demonstrates that the descriptive content of legal statements remains constant within a legal system regardless of conversational context, which is crucial for explaining patterns of disagreement, retraction norms, and attribution of responsibility for content. Furthermore, it argues that desire-like states expressed by all legal statements are directed at the same general property picked out by the locution “it is the law that”, rather than expressing distinct attitudes toward particular norms – regardless of the speaker, enabling legal statements to maintain inference-licensing property and evidentiality. Importantly, the paper identifies generalized conversational implicature as the pragmatic mechanism conveying these desire-like states, explaining their key features of determinacy, reinforceability, non-detachability, cancelability, and calculability. These findings support a an explanation of the regular connection between legal statements and motivation. Rather than positing a conceptually necessary relationship between legal statements and motivational states, it explains their characteristic connection through the general action-guiding purpose of legal discourse and the Cooperative Principle with its attendant maxims.

Introduction

Legal statements, such as “It is the law that capital punishment is prohibited” have long been a focus of inquiry in legal philosophy (see Hart, 1994; Kelsen, 1949; Ross, 1959). A central question in this literature concerns the dual nature of these statements: they seem to combine both cognitive features, such as being true or false, embeddable in logical operators, and apt for justification, with practical features, such as motivating behavior and recommending courses of action¹. This duality, however, fits uneasily with the dominant conceptual framework in the philosophy of mind – the Humean theory of motivation, which sharply distinguishes between beliefs, which aim to represent

¹ The debate over the dual nature of legal statements focuses specifically on their relation to motivating reasons for action. This should not be conflated with the question of legal normativity, which concerns normative reasons. For an analysis of the distinction between motivating and normative reasons, see (Dancy, 2000, pp. 1–25)

the world, and desires, which aim to prompt action in light of how one takes the world to be (Smith, 1987, 1994). The Humean view treats beliefs and desires as distinct existences, with beliefs being motivationally inert on their own. With respect to legal statements, the Humean view creates a tension that is revealed by the following question: Are legal statements expressing beliefs resulting from the cognitive capacities of participants in legal discourse, or rather they are outcomes of their desire-like processes? In response, we may either treat legal statements as expressing beliefs, as cognitivist theories do, and struggle to explain their motivational force²; or treat them as expressing desire-like attitudes, as expressivist theories do, and struggle to account for their cognitive dimensions³.

In recent decades, however, a family of hybrid meta-normative theories has emerged that resists this forced choice, allowing that normative statements may express both beliefs and desire-like attitudes (for instance, see Barker, 2000; Boisvert, 2008; Copp, 2009; Finlay, 2014; Fletcher, 2014; Ridge, 2014; Schroeder, 2009; Strandberg, 2012a). In this regard, it is noteworthy that there is a notable gap in the literature regarding the reconciliation of dual aspects of legal statements.

While some theorists attempt to capture both the cognitive and practical dimensions of legal statements (Perry, 2009; Finlay & Plunkett, 2018; Kramer, 2018; Green, 2019), the extent to which they draw upon considerations posited by meta-normative hybrid theories is, in fact, rather limited. This paper aims to fill that gap. It develops a hybrid framework tailored to the unique features of legal discourse. The framework aims to reconcile the cognitive and practical dimensions of legal statements while drawing upon meta-normative hybrid theories, thus avoiding the limitations of purely cognitivist or expressivist approaches.

The paper proceeds in three parts. Part 1 maps the key choice points for hybrid theories of normative statements, concerning issues such as the context-sensitivity of descriptive content, the uniformity of expressed attitudes across speakers and sentences, and the mechanisms of attitude expression. Part 2 argues for particular answers to these questions that best account for the phenomena of legal discourse. Part 3 then applies this framework to the relationship between legal statements and motivation, engaging debates over motivational internalism.

I argue that legal statements maintain stable descriptive content across various contexts of use and assessment, and express a constant desire-like state across both different legal statements

² For a detailed analysis of how cognitivism struggles to account for the practical dimensions of normative statements, see (Stevenson, 1937, pp. 79–93; Hare, 1952, pp. 43–46; Blackburn, 1984, p. 188).

³ Expressivism concerning legal statements – which suggests that legal statements express only desire-like states toward particular norms – is vulnerable to the same arguments confronting general forms of expressivism, such as the Frege-Geach Problem (Geach, 1958; Hale, 1993; van Roojen, 1996; Unwin, 1999, 2001) and the problem of wishful thinking (Dorr, 2002; Schroeder, 2010; Roojen, 2019). However, legal expressivists must also confront the additional challenge that legal statements seem to pass the evidence-responsive test for beliefs (Ganapini, 2020).

and their speakers. This desire-like attitude, I argue, is expressed through pragmatic mechanisms of generalized conversational implicature. This approach establishes a standardized link between legal statements and motivation, thus offering a promising explanation for the intuitions underlying motivational internalism concerning legal statements.

The key contribution of this paper lies in its novel solution to a fundamental challenge in legal theory: how to reconcile the dual nature of legal statements while avoiding the traditional pitfalls of both “pure” cognitivism and expressivism. The proposed solution advances our understanding of legal reasoning and motivation, offering a more sophisticated framework for analyzing legal discourse. The hybrid framework I propose not only solves a puzzle in legal philosophy, but provides resources for addressing real-world challenges. In particular, it offers tools for critically evaluating the populist critique that legal statements merely express personal preferences or attitudes of participants in legal discourse, such as judges, professors, and other legal experts. On the hybrid view developed here, while legal statements do express desire-like attitudes, their content is still answerable to objective facts of legal domain.

I. Foundational Questions for Hybrid Theories of Normative Statements

This section delves into the complex landscape of hybrid theories of normative statements. At their core, hybrid theories attempt to bridge a fundamental divide in normative discourse by reconciling two seemingly distinct features: the cognitive and practical aspects of normative statements. While hybrid theories share this common aim, they differ in how they achieve it. To understand these differences, we must examine five fundamental questions. The first and second concern how context shapes meaning: how does the descriptive content of normative statements vary depending on who uses them and who assesses them? The third and fourth questions focus on the expression of desire-like states: do different normative statements express different desire-like states, and can different speakers express different desire-like states when using the same statement? Finally, we must examine how does language function to simultaneously convey both descriptive and motivational content in normative statements?

A. Do normative statements have different descriptive contents in different contexts of use?

The first dimension in which hybrid theories may vary concerns a fundamental question: does the descriptive content expressed by normative statements change depending on who uses them? This question addresses whether the belief expressed by a particular sentence varies from speaker to speaker, and it has divided theorists into two camps. The first camp argues that normative

sentences maintain constant descriptive content across different contexts of use. This implies that when making ethical claims, my use of the word 'good' refers to the same property as your use of it. David Copp exemplifies this approach, suggesting that the descriptive, truth-conditional meaning of an ethical sentence like “T is good” can be schematized as “T is F”, where the content of F remains constant across speakers belonging to the same society (Copp, 2001, p. 28). Daniel Boisvert advances a similar position, asserting that ethical predicates denote moral properties with the same metaphysical status as non-moral properties, in a manner that is not speaker-relative (Boisvert, 2008, pp. 195–196).

The second camp, in turn, argues that normative statements may vary in their descriptive content from speaker to speaker, and hence may express different beliefs for different speakers. Stephen Finlay’s end-relational semantics exemplifies this approach, stating that things are good or wrong only relative to some end the speaker has in mind (Finlay, 2014, p. 149). Similarly, Stephen Barker argues that which property evaluative predicates pick out (as their ‘explicated’ content) is a matter of the speaker’s moral view (Barker, 2000, pp. 272, 277). Hence, the diversity of these views suggests that the context sensitivity of descriptive content is a crucial aspect to consider when developing a hybrid theory of normative statements.

B. Do normative statements change their descriptive contents relative to different contexts of assessment?

The second dimension of variation between hybrid theories addresses another crucial aspect of meaning of normative statements: whether the descriptive content of a sentence is sensitive to the context of assessment. Most hybrid theorists argue for stability across contexts of assessment. In their view, even if normative statements express different content when asserted by different speakers, the content of these statements, once asserted, remains constant regardless of who evaluates them, thus providing stable truth-conditions for these statements.

However, Michael Ridge (Ridge, 2007, 2009a, 2009b, 2014) offers an innovative alternative for understanding how descriptive content works in normative statements. He argues that any moral statement combines two elements: a normative perspective and a representational belief, which are connected in a specific way. Normative perspectives involve broadly desire-like states but also constitute a perspective which the agent intuitively endorses – they are sets of relatively stable self-governing policies about which standards to reject and accept (Ridge, 2014, p. 152).

Regarding representational beliefs, Ridge proposes that the beliefs expressed by sentences of the form “X is good” can be understood as “X would be highly ranked as an end by any admissible ultimate standard of practical reasoning”. Crucially, a normative perspective and a

representational belief constituting the content of the moral statement are logically related in that the concept of ‘admissible’ as it figures in the content of the belief should be understood as adverting to standards of practical reason whose acceptance is not ruled out by a particular normative perspective. In consequence, the machinery Ridge developed just provides a function which “takes you from a normative perspective to a representational content” (Ridge 2014, p. 210), implying that the descriptive content of sentences is *derivative* from a particular normative perspective. The key point made by Ridge is that the normative perspective determining the content of “admissible” in a particular normative statement is not necessarily the perspective of the speaker. According to Ridge, when I judge that your normative claim is true, then I thereby occupy a normative perspective and believe that the representational content of your claim corresponds to reality relative to that perspective. As a result, the proposition being assessed as true or false need not be the proposition asserted by the speaker whose claim is being assessed. Rather, which representational content a speaker is assessing as true or false is relative to their own normative perspective (Ridge, 2014, p. 147).

To illustrate Ridge’s idea, consider the sentence: “Licorice is tasty”. Suppose the truth of this sentence, as used in context c_0 and assessed from context c_1 , depends on the tastes of the assessor. If Herbert likes the taste of licorice and Ronald is disgusted by it, the utterance is true as used by Herbert and assessed by Herbert, but false as used by Herbert and assessed by Ronald. As John MacFarlane demonstrates in his seminal work on assessment sensitivity notes, there are two ways to make this supposition coherent (MacFarlane, 2014, pp. 72–74). The first is truth-value relativism, which suggests that propositions and sentences can vary in truth value from one context of assessment to another. According to this view, the truth is not an absolute property – there is no absolute fact about whether a proposition, as used in a particular context, is true; rather, it is inherently relative – it can be true as assessed from one context and false as assessed from another. The second approach is to reject the idea that the proposition expressed by particular utterance is constant across different contexts. According to content relativism, there is no absolute fact of the matter about the propositional content of a given assertion or belief. In the case at hand, we might say that as assessed from Herbert’s context, the proposition Herbert asserted is that licorice is pleasing to Herbert’s tastes; but as assessed from Ronald’s context, the proposition Herbert asserted is that licorice is pleasing to Ronald’s tastes. In this regard, Ridge’s ecumenical expressivism, which states that the normative perspective of the agent assessing the utterance enters the scene to help pick out not its truth value, but the relevant truth-bearer(s) of this utterance – the relevant proposition to which truth is ascribed – seems to support a version of content relativism, where the content of a particular utterance varies between different contexts of assessment.

C. Do different normative statements express different desire-like states?

When we consider how desire-like states function in normative statements, we face a fundamental question: do different normative statements express different desire-like states? This question points to the third key dimension of hybrid theories: how we should individuate the expressive content of normative statements. In this regard, two competing approaches have emerged. The first follows pure expressivists like Simon Blackburn and Allan Gibbard (Blackburn, 1990, 1993; Gibbard, 1990, 2003), who hold that the meaning of a particular moral sentence consists in the mental state it expresses, and that moral sentences express only one state—a desire-like one. Under this view, different moral statements must express different desire-like states precisely because they mean different things. This is achieved by assuming that moral statements convey desire-like attitudes towards particular things – for example, “stealing is wrong” expresses disapproval of stealing, while “murder is wrong” expresses disapproval of murder. These are different states of mind because one can be in the former without being in the latter, and vice versa.

Many hybrid theorists (Barker, 2000; Boisvert, 2008; Copp, 2009, 2014; Finlay, 2014) propose an alternative view: the evaluative attitude expressed by normative statements targets a general characteristic rather than the particular subject of these statements. On this account, the attitude expressed by “torturing the cat is wrong” is directed not at torturing the cat, but instead at the property, *F*, picked out by ‘wrong’. Thus, different normative statements express the same non-cognitive attitude, just aimed at a shared, general property.

D. Do different speakers express different desire-like states with the same normative statement?

According to Blackburn and Gibbard (Blackburn, 1993; Gibbard, 1990, 2003), the desire-like attitude expressed by moral sentences varies across sentences but is constant across speakers. They argue that ‘murder is wrong’ and ‘stealing is wrong’ mean different things, and that they express different states; however, at the same time they state that Jeremy’s use of ‘murder is wrong’ and Immanuel’s use of ‘murder is wrong’ mean the same thing, and, given that the meaning of moral sentences is explained basically in terms of desire-like states they express – they have to express the same desire-like state. Some hybrid theorists share this approach.

However, the majority of hybrid theorists endorse the opposite view. According to Finlay’s end-relational semantics, when a speaker makes a moral judgment, this judgement is relative to the end the speaker has in mind. And the standard speaker has in mind is a moral standard that the speaker herself accepts (Finlay, 2014, p. 149). As a result, the same moral sentence, when used by different speakers, may express not only different beliefs but also different desire-like states.

E. What mechanisms explain the way the desire-like content of normative statements is conveyed?

Finally, we may examine the mechanisms that explain how the desire-like content of normative statements is conveyed. The relationship between normative statements and their desire-like content presents a complex theoretical puzzle that has generated several distinct explanatory approaches. The most straightforward approach, advocated by pure expressivists, suggests that desire-like states are directly encoded in the semantic content of normative statements. However, in order to offer any advantages over ordinary expressivist views, hybrid accounts need to locate these states beyond basic semantic content, hence providing more nuanced explanations for how these desire-like states are conveyed. One prominent view is the implicaturist position, which argues that while formulating normative statements, we express desire-like states via implicature. This approach distinguishes between two main types of implicature: conventional and conversational (Grice, 1991, p. 26). Conventional implicatures are entailed by lexical and constructional meanings, yet they are distinct from the regular truth-conditional content of the sentence. In consequence, they apply across a wide range of contexts without any special back story. Conversational implicature, in contrast, depends on a certain sort of contextual stage-setting or “back story”. On Grice’s conception, they require speakers to reason not only in terms of their language but also their understanding of the context and each other’s goals and intentions. Grice (1989, p. 56) further distinguishes between Particular Conversational Implicatures and Generalized Conversational Implicatures. Particular Conversational Implicature is carried by saying that P on a particular occasion in virtue of special features of the context, cases in which there is no room for the idea that an implicature of this sort is normally carried by saying that P. Generalized Conversational Implicature, in turn, is carried by saying that P because the use of a certain form of words in an utterance would normally (in the absence of special circumstances) carry such-and-such an implicature or type of implicature.

Departing from the implicaturist approach, some theorists discuss a claim that normative statements convey desire-like attitudes through presupposition (Fletcher, 2014, pp. 851–853). In this view, presupposition refers to information that is taken for granted for the utterance to be meaningful in the current context and is not part of the main propositional content of a speech act. For example, a sentence “The British president wears a wig” presupposes that there is exactly one British president. A speaker formulating such a sentence does not assert that there is exactly one British president. Rather, they assume this or take it for granted in making their assertion (Potts, 2015, p. 168).

A different perspective is found in Boisvert's expressive-assertivism, which is rooted in speech act theory (Boisvert, 2008). Boisvert argues that ethical claims are ‘dual’ acts – if a speaker correctly and literally utters a basic ethical sentence S, then the speaker performs a direct assertive

illocutionary act, by which they describe some moral way that the world is, and, simultaneously, a direct expressive illocutionary act, by which they express a motivational state of the speaker.

Another innovative solution comes from Michael Ridge's ecumenical expressivism, which frames the issue in terms of accountability (Ridge, 2014). This approach focuses on the states of mind that agents are accountable for having when making moral statements. According to Ridge, a declarative sentence 'p' expresses a state of mind M if and only if conventions dictate that someone who says 'p' is thereby liable for being in state M. Based on this, ecumenical expressivism holds that the states of mind a speaker is liable by formulating normative claims differ in kind, and not just in content, from the states of mind expressed by purely descriptive claims. Specifically, Ridge argues that any moral statement is constituted by a normative perspective and believe that the representational content of your claim corresponds to reality relative to that perspective. Normative perspectives involve broadly desire-like states but also constitute a perspective which the agent intuitively endorses; in consequence, an agent's normative perspective is a set of relatively stable self-governing policies about which standards to reject and accept. Thus, in Ridge's view, desire-like states are expressed in two ways by agents who formulate normative statements: first, as a direct component of normative judgments, and second, as a determinant of a representational content of beliefs that co-constitute these statements (Ridge, 2009b, p. 240, 2014, p. 152).

II. A Hybrid Framework for Legal Statements

In the previous section, I explored the key questions that hybrid theories must answer. In this section, we will consider which answers to these questions are most appropriate for legal statements. Legal discourse, with its distinct demands and complexities, requires more than a straightforward application of metanormative frameworks. It presents its own unique challenges which must be carefully considered when developing a theoretical model. Thus, my goal in this section is to construct a refined hybrid approach that not only integrates the descriptive and expressive dimensions of legal statements but also accommodates the specificities of legal discourse.

A. Do legal statements have a different descriptive content for different speakers?

As mentioned earlier, one key dimension where hybrid theories may differ is whether the descriptive content expressed by normative statements change depending on who uses them. At first glance, the context-sensitivity of legal statements seems straightforward – legal statements often refer to specific legal systems or jurisdictions, implying that legal statement “This action is illegal” is context-sensitive at least with respect to these systems. However, it can be argued that legal statements are not only sensitive to the legal systems at play but also to the conversational

context in which they are made. Therefore, the discussion of context-sensitivity in legal statements with respect to context of use should be understood not in terms of context-independence versus context-dependence, but rather in terms of two kinds of context-dependence which, following Alex Worsnip, we may label as aspirational context-dependence and parochial context-dependence (Worsnip, 2019)⁴. Finlay and Plunkett, for instance, endorse a form of parochial contextualism by arguing that a statement of the form ‘It is the law that L (in X)’ semantically expresses the proposition that L is a rule (requiring, permitting, or empowering some kind of behavior) satisfying the criteria of the rule of recognition R of legal system X, where the content of R depends on rich, intentional features of a context of utterance such as the mental states of speakers. In consequence, they endorse a view that the content of legal statements may vary from occurrence to occurrence (Finlay & Plunkett, 2018, p. 66).

I now present a direct challenge to the view that legal statements are ‘parochially’ context-dependent. I argue that this approach encounters at least two serious problems: it struggles to account for disagreement about „what the law is” and it struggles to explain why speakers are willing to retract earlier legal statements when their beliefs concerning relevant elements of legal domain have changed.

Let’s assume that legal statements depends on the sources of law and arguments associated with factors of textual, historical, doctrinal, and prudential nature that are harmonized by methods of interpretation.⁵ Regarding disagreement, the context-sensitive approach suggests that „It is the law that the capital punishment is prohibited” when formulated by a textualist, expresses a proposition that the norm prohibiting the capital punishment results from the application of *textualism* to the 8th Amendment of the U.S. Constitution, while „It is *not* the law that the capital punishment is prohibited”, when formulated by purposivist, expresses a proposition that the norm prohibiting capital punishment does not result from the application of *purposivism* to the 8th Amendment of the U.S. Constitution. However, these two claims are compatible – the truth of the former does not exclude the truth of the latter. This approach, then, predicates the following dialogue between two agents endorsing different methods of interpretation (let’s call them Herbert and Ronald):

Herbert: It is the law that capital punishment is prohibited, isn’t it?

⁴ Parochial contextualism, as Worsnip defines it, holds that the contextually-relevant standards are those that the speaker, or others in her environment, subscribe to. In contrast, aspirational contextualism argues that the contextually-relevant standards are the objective standards for the relevant domain.

⁵ Such methods were developed by legal theorists across different legal cultures. See (Eskridge Jr., 2016; Scalia & Garner, 2012; Sunstein, 1989; Wróblewski, 1959; Zieliński, 1972, 2008)

Ronald: I agree, but it is not the law to me.

The problem is that the above dialogue sounds flawed. Contrary to the referential reading of legal statements, it seems more intuitive to say that Herbert and Ronald do disagree while making their claims. In response, proponents of the referential interpretation might embrace the non-content-based disagreement strategy and argue that disagreements can target something other than the asserted proposition – for instance, attitudes of disputing speakers⁶. However, there is good reason to think that disagreements involving “it is the law that...” are deeper – that is, they extend beyond mere disagreements in attitude. This is evident in the fact that disputing participants in legal discourse often declare statements they disagree with as false.⁷ To explain this, proponents of the non-content-based disagreement strategy seem to be committed to abandoning the philosophical orthodoxy suggesting that propositions are the primary bearers of truth,⁸ thereby highlighting a fundamental flaw in the referential interpretation⁹.

A second challenge for the context-sensitive of legal statements is the norm of retraction, stating that when an assertion turns out to be false, the speaker is expected or required to retract their claim. Consider Herbert, who, during his first year of law school, was a textualist, and claimed then: “It is the law that capital punishment is prohibited”, as he recognized that a norm prohibiting capital punishment results from applying textualism to the sources of law, for example, the 8th Amendment to the US Constitution. Now, having explored a broader spectrum of methods of interpretation, he believes he was wrong. He has changed his mind about which method of interpretation is the proper one and has realized that a norm prohibiting capital punishment does not result from applying this method to the sources of law. In this situation, if confronted with his past statement, we may expect Herbert to answer not by saying, “It was the law that the capital punishment is prohibited then, but it is not the law any more”, but rather by retracting his initial

⁶ Two men will be said to disagree in attitude when they have opposed attitudes to the same object – one approving of it, for instance, and the other disapproving of it – and when at least one of them has a motive for altering or calling into question the attitude of the other. (See Stevenson, 1944, p. 3)

⁷ In this regard, I follow Mark Schroeder who identifies two distinct problems of disagreement: the “shallow” problem, which can be addressed by invoking a disagreement in attitude, and the “deep” problem, which cannot be resolved through this approach. (See Schroeder, 2008, p. 17)

⁸ (Salmon & Soames, 1989; Stalnaker, 1999; See Weber, 2012)

⁹ It is noteworthy that in recent years, proponents of the non-content-based disagreement strategy have gone on the offensive, offering various kinds of evidence that, as a matter of fact, much ordinary moral or normative disagreement does not involve utterances with inconsistent or incompatible contents. So it is suggested that it is actually the advocates of the content-invariant approach, not the contextualist, who have some explaining to do (see Finlay, 2017). Regarding the problem of deep disagreement, Finlay proposes that when disputants use evaluative markers such as “incorrect”, “wrong”, or “false”, these can be given a metalinguistic explanation (see Plunkett & Sundell, 2013, 2021). This explanation states that two utterances may constitute disagreement not because their content conflicts, but because they express conflicting attitudes about the use of particular terms in the conversational context. However, this approach raises questions about its ability to resolve deep disagreements, since it remains unclear how it could provide a satisfactory explanation for why disputants with conflicting attitudes about language use would specifically choose evaluative markers typically associated with content, like “incorrect”, “wrong”, or “false”, in their disagreements.

statement. Nonetheless, the referential reading of legal statements faces difficulties explaining why a retraction of previous statement would be reasonable for Herbert: if his initial claim was a true claim about the norm prohibiting capital punishment and method of interpretation he favored, then retraction should not be required¹⁰.

Therefore, we should acknowledge that legal statements may have different descriptive content when uttered in different jurisdictions. However, within a given legal system, their meaning should be considered constant across different contexts of use.

B. Does an uttered legal statement have a different descriptive content in different contexts of assessment?

The question whether an uttered legal statement possesses different descriptive content when evaluated in varying contexts of assessment appears to invite complex theoretical considerations. However, careful analysis suggests that such content remains invariant in this respect. This conclusion stems from fundamental principles governing the nature of assertions and their role in legal discourse. It is a requirement of a speech act being an assertion that it have a determinate content, as speakers are responsible for a content of their assertion, and they could not be responsible for contents which vary among hearers. As John MacFarlane (MacFarlane, 2014, p. 74) argues, such variation would undermine the basic function of assertoric speech acts. Consider a simple example involving taste statements: If Ronald were to claim that Herbert had asserted that licorice is pleasing to Ronald ‘s tastes, Herbert would simply deny this, and ordinarily this denial would be taken to be authoritative. In support of his claim, Herbert could point out that her basis for making the assertion was that licorice tasted good to him, and that he was aware of the deep differences between her tastes and Ronald’s. So it would have been completely irrational for him to assert that licorice is pleasing to Ronald’s tastes. And if it was so, then Ronald is not entitled to deploy their taste in assessing Herbert ‘s statement.

This reasoning extends naturally to the legal domain. Consider two legal philosophers with contrasting interpretive approaches: Herbert, who endorses a textualist position, and Ronald, who is an advocate of purposivism. Suppose Herbert asserts: “It is the law that stealing is prohibited”. If Ronald were to claim that Herbert had asserted that it is the law that N according to Ronald’s view, Herbert would justifiably deny responsibility for such content, as it contradicts what he actually said. This analysis suggests that the descriptive content of legal statements remains constant across different contexts of assessment. To maintain otherwise would contradict the intuition that

¹⁰ It is worth noting that strong support for the norm of retraction as applying to certain cases is, in general, not found. See (Kneer & Marsili, 2024; Skovgaard-Olsen & Cantwell, 2023) In response, some authors argue that even retraction is not mandatory, it is still appropriate. (See Knobe & Yalcin, 2014; Zeman, 2024) It is therefore an open question to what extent the norm of retraction applies to legal statements. On this basis, one should bear in mind that the argument from retraction against the referential interpretation of legal statements is persuasive, but not decisive.

Herbert is justified in denying responsibility for content relative to Ronald's preferred interpretive framework.

C. Do different legal statements express different desire-like states?

Another critical dimension along which hybrid theories of law may differ concerns the nature of attitudes expressed by different legal statements. Consider two statements: “it is the law that stealing is prohibited” and “it is the law that murder is prohibited”. Do these express distinct attitudes – one toward the norm prohibiting stealing and one toward the norm prohibiting murder? To address this question, we should examine a fundamental feature of valid arguments – what I shall call the inference-licensing property. The inference-licensing property holds that accepting the premises of a valid argument commits one, in some sense, to accepting its conclusion. This does not mean that something is necessarily going wrong if someone accepts the premises and doesn't accept the conclusion—she may simply not have put the premises together, or though she has put them together, she may also have strong evidence against the conclusion and be as yet unsure how to proceed. But it does mean that something is going wrong if someone accepts the premises and has considered the argument but simply declines to accept its conclusion—even when explicitly confronted with the argument from her existing beliefs and even in the absence of any countervailing evidence. Valid arguments must not be like that; their whole interest, to us, is that we can create rational pressure on people to either accept the conclusion of the argument or else give up on one of its premises – not just to not deny the conclusion unless they give up one of the premises. As Schroeder (Schroeder, 2009, p. 266) states, accepting a claim means being in each mental state that would be expressed by a sincere assertion of that claim. Hence, for legal statements that express both beliefs and desires, acceptance requires being in both states simultaneously

To illustrate the inference-licensing problem concerning legal statements, consider the following argument, where ‘M’ and ‘S’ are abbreviations for a norm prohibiting murder and a norm prohibiting stealing, the expression “it is the law that...” express a desire to do what is K, at least relative to a given context of utterance (different ways of implementing this theory will choose different values of ‘K’ or will make it vary from context to context, depending on the speaker), and small caps denote mental states (the mental states listed after the arrows are the ones expressed by each sentence):

P₁: ‘It is the law that S’ →_{BF}(S is K);_{DES}(X)

P₂: ‘If it is the law that S then it is the law that M’ →_{BF}(S is K → M is K);_{DES}(Y)

C: ‘It is the law that $M' \rightarrow_{BF}(M \text{ is } K);_{DES}(Z)$

Consider Martha, who initially accepts the premises of this argument but not the conclusion – he does not yet believe that murder is K. However, when Martha works through this argument, he forms the belief that murder is K. But now, the phenomena we need to explain is, why can’t someone accept the premises and have the belief expressed by the conclusion, but not go on to have the desire-like attitude expressed by the conclusion, and hence simply decline to accept the conclusion?

If we assume that different legal statements express different desire-like states, we must explain how Martha may derive $_{DES}(Z)$ from $_{DES}(X)$ and $_{DES}(Y)$. While possible, it is not a particularly promising strategy. If a commitment to $_{DES}(Z)$ could be explained on the basis of the desire-like attitudes expressed by the premises alone, then hybridism wouldn’t offer special advantages over ordinary expressivist views when it comes to explaining the inference-licensing property. I therefore conclude that to gain additional leverage in explaining the inference-licensing property, hybrid views must hold that $_{DES}(Z)$ is identical with either $_{DES}(X)$ or $_{DES}(Y)$, implying that desire-like states expressed in legal statements are directed nit at the subject of the statement, such a s particular norm, but instead at the general characteristic F picked out by “it is the law that...”. This implies that desire-like states expressed in legal statements are directed not at the subject of the statement, such as a particular norm, but instead at the general characteristic K picked out by “it is the law that...”. This yields the following revised structure of the aforementioned argument:

P₁: ‘It is the law that $S' \rightarrow_{BF}(S \text{ is } K);_{DES}(\text{to do what is } K)$

P₂: ‘If it is the law that S then it is the law that $M' \rightarrow_{BF}(S \text{ is } K \rightarrow M \text{ is } K);_{DES}(\text{to do what is } K)$

C: ‘It is the law that $M' \rightarrow_{BF}(M \text{ is } K);_{DES}(\text{to do what is } K)$

Because we stated that attitude expressed by C is identical to attitude expressed by either P₁ or P₂, when Martha accepts the conclusion, it adds nothing to his desires. However, his motivations do change because, now that he believes that a norm prohibiting murder is K, this engages with his desire to do what is K, thereby motivating him to not murder. As a result, we get a simple explanation of the inference-licensing property: it is impossible to accept the premises of the argument without having the desire-like attitude expressed by its conclusion, because legal statements are directed at the general characteristic K picked out by “it is the law that...”, thus implying that the desire expressed by the conclusion is identical to at least one of the premises.

D. Do different speakers express different desire-like states with the same legal statement?

Having argued against the claim that different legal statements express different desire-like states, we must now examine whether different speakers express different attitudes when making the same legal statement. Consider two agents, Herbert and Ronald, both declaring “It is the law that stealing is prohibited”. However, Herbert adheres to textualism, while Ronald embraces purposivism. One might argue that when Jeremy makes this statement, he expresses approval of norms that fulfill textualist requirements, whereas when Immanuel makes the same statement, he expresses approval of norms that satisfy purposivist criteria. This suggests the possibility that different speakers may express different desire-like states even when using identical legal statements.

However, this view encounters significant difficulties when we consider the nature of expression itself. Many theorists argue that the expression-relation has an inherently evidential character, which means that expressing a mental state involves intentionally indicating or conveying to an audience that one is in that mental state. In this regard, Wayne Davies emphasizes that the expressive action must be *publicly observable* (Davis, 2002, p. 46). Consider a simple example: Herbert says “It is going to rain” *out loud*, while Ronald says the same thing *to himself*, not just “under his breath” but “in his head”. Both actions may be an indication that the speaker believes it is going to rain. But only Herbert has *expressed* his belief.

This understanding of expression raises a crucial problem for hybrid theories about legal statements. If legal statements express desire-like states toward some general property, how can they effectively inform the audience about the speaker’s motivational state when different speakers express different desire-like states through the same statement? As Schroeder aptly notes (Schroeder, 2009, pp. 280–283), hybrid theorists are confronted with the following dilemma:

1. The audience is already aware of the speaker’s normative perspective, in which case the statement provides no new information about their desire-like state;
2. The audience is unaware of the speaker’s perspective, in which case the statement provides no evidence about the speaker’s desire-like state.

Pure expressivism avoids this dilemma and thus accommodates the intuition concerning evidential character of the expression-relation quite easily: it argues that different statements express different desire-like states, but speakers express the same desire-like state by a particular statement. When Herbert says “murder is wrong” and Ronald says “stealing is wrong”, they express different desire-like states – the former expresses a desire-like state towards murder, while the latter – towards stealing. At the same time, when Herbert says “murder is wrong” and Ronald says “murder is wrong” they express the same desire-like state toward murder. Their utterances

informative, because they provide evidence that they have particular attitude toward particular phenomena.

However, given that expression fundamentally involves providing evidence of one's mental state, and that legal statements express desire-like states toward some general property, hybrid theories cannot consistently maintain that different speakers express different desire-like states through the same legal statement, as it becomes incompatible with the very notion that legal statements express desire-like states at all. Consequently, for legal statements to effectively serve their function of conveying speakers' desire-like states to audiences, they must express the same type of such states, regardless of who utters them. Thus, when Herbert states "It is the law that stealing is prohibited" and Ronald states "It is the law that murder is prohibited", they both express an attitude toward the same feature K conventionally picked out by "it is the law that...", rather than attitudes the norm prohibiting stealing or the norm prohibiting murder.

E. What mechanisms explain the relationship between target statements and the relevant desire-like states?

In the preceding analysis, I identified several distinct mechanisms available for hybrid theorists through which normative statements can convey desire-like states. These mechanisms can be broadly categorized into four theoretical approaches: (1) the implicature approach, which explains these states through conventional or conversational implications; (2) the presupposition approach, which treats them as background assumptions necessary for meaningful utterance; (3) the illocutionary force approach, which links them to the performative aspects of speech acts; and (4) the accountability approach, which explains them through conventional liability for mental states. This section undertakes a systematic examination of these mechanisms to determine which most adequately captures the way legal statements express desire-like states.

(i) implicatures

One of the most compelling approaches to understanding how legal statements express desire-like states is through the framework of implicatures. To systematically evaluate whether legal statements express desire-like states through implicatures, we can apply five classical tests that distinguish between conversational and conventional implicatures. These tests, which have become standard tools in pragmatic analysis, examine:

(Indeterminacy). Conversational implicatures can be *indeterminate*. Conventional implicatures are determinate.

(Reinforceability). Conversational implicatures can be reinforced without redundancy, conventional implicatures cannot.

(*Detachability*). Conversational implicatures are nondetachable, while conventional implicatures can be detached.

(*Cancelability*). Conversational implicatures can be canceled, conventional implicatures cannot

(*Calculability*). Conversational implicatures can be calculated from context and conversational principles, conventional implicatures cannot. (Grice, 1991)

Through careful application of these tests to legal statements, we can determine whether the desire-like states we attribute to legal statements in explaining their practical features arise from conversational or conventional implicatures.

Let us begin with the indeterminacy test. Because conventional implicatures are part of the conventional meaning of the expressions that carry them, conventional implicatures are also highly determinate. Consider the statement „Chelsea has signed that kraut Ballack“. It seems that it conveys determinate implicature, namely a derogatory attitude toward German people. Conversational implicatures, by contrast, can display significant indeterminacy. Consider this dialogue:

A: What do you think of the new boss?

B: It sure is sunny at this time of year, isn't it!

B's response could imply various meanings—the boss might be nearby, B might find them incompetent, B might consider them tyrannical, or B might simply be unwilling to discuss the matter. However, an important distinction exists between particular and generalized conversational implicatures: while particular implicatures exhibit this kind of indeterminacy, generalized conversational implicatures are quite determinate, as they are generated without special contextual setup.

When we examine legal statements, we find that they typically convey fairly determinate information about speakers' desire-like attitudes. Consider the following conversation:

Herbert: I saw someone breaking into a car and taking something from it. It looked pretty serious, but I'm not sure if I should get involved.

Ronald: It is the law to report such activities.

In this case, we can be justifiably confident that Ronald's utterance means that one should act in accordance with the law. This determinacy of recommendation implicated by Ronald's utterance suggests that desire-like states in legal statements align more closely with either

conventional implicatures or generalized conversational implicatures, rather than with particular conversational implicatures.

The reinforceability test examines whether one can felicitously make the implicated information *explicit*. Consider these two cases:

- “Chelsea has signed that kraut Ballack. I have derogatory attitudes toward German people”.
- “Some of the guests have gone. Not all of them”.

In the first case, making the derogatory attitude explicit creates redundancy – a characteristic of conventional implicature. In the second case, explicitly stating “not all off them” does not generate redundancy – typical of conversational implicature. Now consider legal statements:

- It is the law that stealing is prohibited. And I affirm the value of the law”.

It seems that making the desire-like states expressed by legal statements explicit does not create redundancy. We can felicitously make the implicated information *explicit*. This suggests that the desire-like states expressed by legal statements function more like conversational implicatures than conventional ones.

An implicature is considered detachable if the speaker can convey the same basic proposition without generating the implicature. As Grice notes, conventional implicatures are detachable because they are carried by expressions that can be omitted without affecting the at-issue proposition or by the choice of one word over another that lacks the implicature. In contrast, with respect to utterances that carry conversational implicatures, “it is not possible to find another way of saying the same thing, which simply lacks the implicature in question”, as Grice puts it (Grice, 1991, p. 43), because conversational implicatures are not triggered by the use of particular lexical items in the sentence uttered but are determined by features of the context of utterance. Consider the following two cases:

- “Chelsea has signed that kraut Ballack”.
- “Some of the guests have gone”.

The conventional implicature arising from “kraut” in the first case is detachable, because there is an alternative way of stating the at-issue proposition (that Chelsea has signed Ballack, a German) that does not generate the implicature. Therefore, it seems that the expression of derogatory attitude toward German people in “Chelsea has signed that kraut Ballack” should be explained in terms of a conventional implicature. The utterance in the second case, in turn, generates an

implicature that not all guests have gone. However, the implicature is unaffected by the form of the utterance. There is no way to state the same proposition without generating the implicature.

When we examine legal statements, we may consider the following dialogue between Herbert and Ronald:

Herbert: “Stealing is permissible, it’s a legitimate means of reclaiming resources that should belong to all”.

Ronald: “No, it is the law that stealing is prohibited”.

Ronald’s response conveys that he has a positive desire-like attitude toward the law. However, the same attitude is expressed when Ronald responds to Herbert by saying, “No, stealing is prohibited by the law”, or in any other way of stating the same at-issue proposition. Thus, the attitude expressed by legal statements, like conversational implicatures, seems to be highly nondetachable. Consequently, with respect to detachability, attitude expression fits conversational implicatures better than conventional implicatures.

The fourth test to consider is Grice’s test of cancelability. The cancelability test examines whether implicated content may be cancelled in a way that the speaker’s whole utterance remain felicitous (Zakkou, 2018, p. 7). An implicature qualifies as cancellable in two scenarios: (i) when speakers can explicitly state that they do not have the implicated commitment otherwise indicated by their utterance without making their utterance infelicitous, or (ii) when contextual factors can suppress the rise of the implicated commitment otherwise indicated by the utterance without making the utterance infelicitous. This test serves as a crucial diagnostic tool – cancellable implications typically indicate conversational implicatures, while conventional implicatures resist cancellation. Consider the following example:

- “Chelsea has signed that kraut Ballack. I have nothing against German people”.

The speaker’s attempt to negate the derogatory attitude implied by using the term “kraut” through the addition of the clause “I have nothing against German people” intuitively creates a sense of incoherence. This is because someone who genuinely has no prejudice against Germans would likely avoid using a derogatory term like “kraut” in the first place. Thus, this example illustrates the non-cancelability feature characteristic of conventional implicatures. Compare this with the following case:

- “The prize is in the garden or the garage”.

This statement typically implicates the speaker's uncertainty about the precise location. However, one can felicitously cancel this implicature by adding "but I'm not telling you which". Adding this clause does not create any sense of incoherence. This indicates that the implicature conveyed by this statement is conversational rather than conventional.

Legal statements exhibit interesting behavior regarding cancelability. Joseph Raz's influential observation about the "detached" or "non-committed" use of legal language provides crucial insight here. When I – a non-vegetarian – tell my vegetarian friend, "you shouldn't eat that salad—it has bacon in it", it is clear to both speakers that I make a certain recommendation that aligns with vegetarianism, even if I do not personally endorse the vegetarian approach (Raz, 2009, p. 153). In this case, my commitment to vegetarianism is cancelled by the context (Mullins, 2018, p. 377). According to Raz, the phenomenon of detached use is a specific feature to legal statements (Raz, 2009, pp. 153–156). A lawyer advising their client to follow certain actions prescribed by legal norms need not be fully committed to having a positive attitude toward the cited norms. However, the lawyer will adopt the perspective of someone who does hold such an attitude. Thus, detached statements are not purely descriptive – they just aim to provide adequate guidance without requiring a positive attitude toward the norm. This suggests that it is possible to cancel some effects of desire-like states implicated by legal statements—such as personal commitment to a particular norm—without canceling other effects, such as recommendations addressed to others. Therefore, what is canceled in detached legal statements is not the implicated desire-like state itself but rather a subset of the consequences that follow from it.

The question then arises whether all implicated effects associated with desire-like states expressed by legal statements can be canceled. In this regard, consider the following utterance:

- It is the law to wait at the red light.

This statement typically implicates both the speaker's endorsement of the norm prescribing waiting at the red light and the speaker's recommendation to others to wait at the red light. However, one can felicitously cancel both these implicated effects by adding "but the law is just an instrument of class oppression and we are in a hurry, so we should not care about it". By adding this clause, the speaker explicitly clarifies that they neither endorse the law nor recommend following it. Importantly, this cancellation creates no incoherence. This indicates that the implicature conveyed by legal statements is conversational rather than conventional.

The final test in our analysis examines calculability—whether attitudes expressed by legal statements can be derived through reasoning from the speaker's assertion in combination with general conversational principles. The distinction between calculable and non-calculable

implicatures is crucial here: conventional implicatures are not calculable, because they arise from arbitrary lexical conventions or constructional idiosyncrasies. Conversational implicatures, in turn, are calculable, as they result from interactions of assertoric content with particular conversational principles.

Central to this analysis is Grice's Cooperative Principle: "Make your conversational contribution such as is required by the accepted purpose or direction of the talk exchange in which you are engaged". Grice understood this as a specific instance of rational action in communication. Griceans take the Cooperative Principle to entail "maxims", including Relation ("Be relevant"), Quantity ("Make your contribution as informative as required"), Quality ("Make your contribution true") and Manner ("Avoid obscurity") (Grice, 1991, pp. 26–27). To illustrate calculability in action, consider the following conversation:

Ann: I'm out of gas.

Bob: There's a gas station around the corner.

While Bob's literal statement merely indicates the location of a gas station, it would be typical for Bob to have meant that Ann can get gas at the station around the corner. This additional meaning is not arbitrary but can be calculated through Gricean maxims: Bob's response would not be relevant to the conversation's purpose unless Bob meant and believed that Ann could get gas at the station. Thus, while the information that Ann can get gas at the station is not directly derivable from the literal content of Bob's utterance, it is calculable based on what Bob said and the principle of Relation. If we remove this principle, the implicature that Ann can get gas at the station around the corner would disappear. Now consider the following conversation:

Herbert: Do you think Tom will manage to fulfill this task?

Ronald: Tom is an Englishman; he is, therefore, brave.

Here, Ronald's response carries two implications. The first is that Tom will indeed fulfill the task. The second is that Tom's bravery follows from his being English. Crucially, while the first implication may be calculated based on conversational maxims, the second persists even if we remove the Cooperative Principle, along with the conversational maxims it entails. Therefore, we cannot understand its origin by appeal to context and maxims, as it arises directly from the conventional associations embedded in Ronald's phrasing. This marks it as a conventional implicature.

Now we may consider whether desires-like states implicated by legal statements are calculable. Consider the aforementioned conversation:

Herbert: I saw someone breaking into a car and taking something from it. It looked pretty serious, but I'm not sure if I should get involved.

Ronald: It is the law to report such activities.

Through the same principles of cooperative conversation, we can calculate Ronald's implicated recommendation to inform the police. Herbert has asked for guidance about appropriate action, and Ronald's utterance, to be relevant to this quest for guidance, must be understood as a response to this quest. Most plausibly, it may be understood as such a response if we assume that it meant to recommending to inform the police. Following the maxim of relevance, Ronald would not have uttered this sentence unless he wanted Herbert to inform the police about what they saw, since he intends his contribution to be relevant for the purposes of their conversation. Therefore, like the gas station example, this recommendation is not directly stated but can be calculated from the utterance's content combined with basic conversational principles. This analysis suggests that desires expressed by legal statements are calculable, indicating that attitude expression in legal statements aligns more closely with conversational implicatures than with conventional implicatures.

There is also an additional compelling argument against treating legal statements as conventional implicatures that goes beyond standard tests for implicature that emerges from their projection behavior. Conventional implicatures are *strongly projective* – they survive as an utterance implication when the expression that triggers the implication occurs under the syntactic scope of an entailment-cancelling operator (not only negations, or conditionals, but also attitude reports and indirect discourse) and are understood as a commitment of the speaker (Potts, 2015, p. 191; Stokke, 2017, pp. 137–141). To illustrate this projection behavior, consider how pejoratives function in language. To call Brenda a “pom” is not merely to describe her as English; it is also to express a kind of disdain or perhaps even contempt toward her for being English. Though these attitudinal component arise from conventional usage, it operates independently of truth-conditional content, marking it as conventional implicature. The strongly projective nature of such conventional implicatures becomes clear when we embed them in attitude reports. Consider:

- “Anna thinks Brenda is a pom”.

In uttering this sentence, I myself express contempt for the English, and I do *not* seem to ascribe contempt for the English to Anna. In this regard, the offensive element “projects” through report construction, remaining a commitment of the speaker rather than being attributed to the subject of the report. Legal statements, however, behave differently. Consider:

- “John believes that it is the law that stealing is prohibited”.

In saying that John believes that it is the law that stealing is, I do not express my own positive attitude toward this law – at most, I attribute such an attitude to John. The fact that attitudes expressed by legal statements are blocked by attitude ascriptions stands in stark contrast to the behavior of conventional implicatures, providing further evidence that the desire-like states expressed by legal statements must be conveyed through different mechanisms.

(ii) *presupposition*

Another possible explanation of the practicality of legal statements available to hybrid theorists suggests that normative statements express desires via presuppositions. Presuppositions occur when speakers rely upon unstated propositions that are necessary for their utterances to make sense. For instance, the statement “The British president wears a wig” presupposes (without asserting) that there exists exactly one British president. Such presuppositions have a distinctive characteristic: they “persist” in ways that ordinary commitments do not. To illustrate this persistence, consider these variants:

- “The British president does not wear a wig”.
- “If the British president wears a wig, it is a convincing one”.
- “Does the British president wear a wig?”

Each statement preserves the presupposition that there exists exactly one British president, demonstrating how presuppositions project through various linguistic contexts. However, it is noteworthy that presuppositions differ from conventional implicatures in one crucial way: they typically do not project through attitude reports and indirect discourse (Stokke, 2017, p. 9). For instance, when reporting “Anna thinks Brenda is a pom”, the speaker, and not Anna, expresses contempt for English people (Copp, 2014, p. 54; Schroeder, 2009, p. 306). This marks the implicated contempt for the English as a conventional implicature. By contrast, presuppositions work differently. Consider the following statements:

- “Sam quit smoking”.
- “CNN reported that Sam quit smoking”.
- “Kim believes that Sam quit smoking”.

The statement “Sam quit smoking” has at-issue content indicating that Sam no longer smokes, and it presupposes that he smoked in the past. However, neither “CNN reported that Sam quit

smoking” nor “Kim believes that Sam quit smoking” need to entail that Sam smoked in the past. This shows that presuppositions do not project through indirect discourse.

When it comes to projection, expressing desire-like attitudes in legal statements reveals a similar pattern to presuppositions. For instance, the statement “It is the law that stealing is prohibited” conveys the speaker’s positive attitude towards the law. However, in “John believes that it is the law that stealing is prohibited”, the reporter does not express their own attitude toward the law; at most, the statement attributes that attitude to John.

Despite these similarities, there is a key difference between presuppositions and the expression of desire-like states in legal statements: presuppositions exhibit only partial cancelability. They can be canceled in embedded contexts but not in direct assertions. Consider the following utterance:

- “John thinks that Danny stopped smoking. In fact, Danny never smoked in the first place”.

Here, the presupposition that Danny once smoked can be canceled within an embedded context without contradiction. However, in an unembedded context, the same cancellation leads to a contradiction:

- “Danny stopped smoking. In fact, Danny never smoked in the first place”.

In this unembedded context, the speaker appears to contradict themselves by accepting that Danny both smoked and did not smoke at some point. Thus, while presuppositions are cancellable in embedded contexts, they cannot typically be canceled in direct assertions without resulting in infelicity. Now, contrast this with the following statement:

- “It is the law that stealing is prohibited. But I don’t care about the law”.

In this case, the expression of attitude toward the law is successfully canceled in an unembedded context, without contradiction. This difference in cancelability suggests that presuppositions cannot adequately account for how legal statements express desire-like states..

(iii) *illocutionary force*

Another significant approach suggests that normative statements express desires through their illocutionary force. Daniel Boisvert, a prominent advocate of this view, argues that normative statements function simultaneously as both direct assertives and direct expressives. To evaluate this theory, we must first understand John Searle's influential taxonomy of speech acts. In Searle’s taxonomy, assertive speech acts devote a speaker to something they believe to be the case. Expressive speech acts, by contrast, serve to convey the speaker's attitude or feeling corresponding

to the verb used (Searle, 1975, pp. 356–357). What makes Boisvert's account particularly compelling is its sophistication: rather than merely claiming that normative statements have incidental expressive effects, it positions the expressive force as a constitutive element of such statements. On this view, the expression of desire-like states is not a pragmatic side effect but an essential feature of normative discourse.

However, this theory encounters a significant challenge when applied to legal statements. The problem arises from the observation that in many circumstances, speakers can successfully make legal statements without conveying any expressive component. For instance, a lawyer might cite regulations without endorsing or recommending them. This possibility of “expressively neutral” legal statements suggests that desire-like states cannot be constitutive elements of such statements in the way Boisvert's theory requires¹¹.

(iv) *accountability*

The challenges that undermine presupposition and illocutionary force as mechanisms for expressing desire-like states in legal statements similarly affect Ridge's ecumenical expressivism. This approach focuses on the states of mind that agents are accountable for having when making normative statements. According to Ridge, speakers formulating normative statements are accountable for both being in a certain normative perspective and having a representational belief whose content is linked to this perspective in the right way. Thus, this framework entails that expressing a normative statement requires occupying a normative perspective.

However, this account faces difficulties when applied to legal statements. As we have seen, speakers are not accountable for possessing desire-like states merely in virtue of making legal statements. A speaker can felicitously state “It is the law that you should stop at a red light” even without being personally motivated to follow or recommend this norm. This possibility of making felicitous legal statements without being accountable for corresponding desire-like states demonstrates that Ridge’s ecumenical expressivism does not provide an adequate explanation of how non-cognitive attitudes are expressed by legal statements.

III. Legal Statements and Motivational Internalism

Having examined crucial issues—including the context-dependence of descriptive content, the variation of desire-like states across statements and speakers, and the mechanisms explaining the

¹¹¹¹ The critique presented here poses a direct challenge specifically to force conventionalism – the view developed by Austin and Searle (Austin, 1962; Searle, 1969) that illocutionary force is determined by extra-semantic conventions. However, it does not necessarily succeed against intention-based accounts of illocutionary force, as espoused by Strawson (Strawson, 1964), where the force is determined by the speaker's communicative intentions rather than linguistic conventions.

relationship between statements and desire-like states—we can now address the relationship between legal statements and motivation.

There appears to be a strong connection between legal statements and motivation. As Finlay and Plunkett note, there is at least a special class of statements about law that seem essentially practical, in that the speaker tends to be reliably motivated to comply with what she asserts to be the law, and thereby to express pro- or con-attitudes towards the relevant conduct (Finlay & Plunkett, 2018, p. 57). When individuals judge an action to be legally prohibited, they typically experience a corresponding motivation to avoid that action. When an agent judges that stealing is legally prohibited, we expect them to be motivated to refrain from theft. Indeed, we question the sincerity of those who affirm legal obligations while displaying no corresponding motivation. This connection manifests clearly in practical deliberation, where recognizing an action as illegal typically removes it from our set of viable options, while identifying it as legally required generally leads to its adoption. These practical aspects of legal discourse may suggest that motivation is somehow internal to or necessitated by legal judgments. This view – *motivational internalism* – can be stated as:

(*motivational internalism*). Necessarily, if a person judges that she legally ought to φ , then she is (at least somewhat) motivated to φ .

My account of legal statements, however, aligns with externalism, proposing that the relationship between legal statements and motivation can be explained through conversational implicatures, without the need of postulating necessary connection between legal statements and motivation¹².

To develop this explanation, we must first revoke the distinction between two types of conversational implicature. *Particularized conversational implicature* arises in virtue of certain distinctive features of the context in which the utterances is made. *Generalized conversational implicature*, in turn, arises even if the context in which the utterance is made does not have any distinctive features of this kind; a person's utterance carries this implicature due to the general purpose of a given conversation, unless she explicitly or the context cancels it. The latter form is particularly relevant to our discussion.

Based on the notion of generalized conversational implicature, the relationship between legal statements and motivation can be understood through the general purpose of legal conversations. The fundamental idea is that the general purpose of legal conversations is to guide action – to encourage or discourage certain behaviors. Therefore, given the Cooperative Principle,

¹² Caj Strandberg's analysis of this subject heavily influenced the ideas presented in this section. (See Strandberg, 2012b, pp. 45–51)

legal statements, should be seen as contributing to this general purpose. In consequence, when someone involved in a legal conversation states “It is the law that stealing is prohibited”, it is reasonable to assume, given the general purpose of legal conversations, that the speaker wants people to refrain from stealing. A case in which a person uttering such statement does not want people to refrain from stealing may be regarded as a case that the speaker has not adhered to the general purpose of legal discourse.

This leads to a crucial point: when someone utters a sentence like “It is the law that φ ”, we presume she is motivated to φ unless something in the context or her additional statements indicates otherwise. This presumption arises not from any necessary connection between legal judgment and motivation, but from the general action-guiding purpose of legal discourse.

Consequently, our perplexity when encountering individuals who make legal statements to the effect that it is the law that φ without being motivated to φ , can be explained through pragmatics: such utterances fail to serve the fundamental purpose of legal discourse – to guide action – thereby violating Grice’s Cooperative Principle, along with the maxim of relation. This violation explains our intuitive sense that something has gone wrong in such cases.

This analysis offers motivational externalists a powerful explanation of the standardized connection between legal statements and motivation – a connection that internalists have traditionally claimed as evidence for their position. While internalism posits that there is a conceptually necessary connection between a statement that it is the law that φ and motivation to φ , the externalist account presented here suggests a more nuanced view: the motivational aspect of legal statements derives not from logical necessity but from the general action-guiding purpose of legal discourse.

Conclusion

In conclusion, this paper develops a novel theoretical framework for understanding the dual nature of legal statements that transcends existing hybrid theories. Through systematic examination of the key dimensions along which hybrid approaches differ, it constructs a sophisticated account that reconciles the cognitive and practical aspects of legal statements while remaining faithful to characteristic features of legal discourse.

The analysis yields three significant results. First, while the descriptive content of legal statements may vary across jurisdictions, it remains constant within a given legal system, regardless of context of use or assessment. This semantic stability proves essential for explaining fundamental features of legal discourse, including patterns of disagreement, norms of retraction, and the attribution of responsibility for content. Second, desire-like states expressed by all legal statements

are directed at the same general property picked out by the locution “it is the law that”, rather than expressing distinct attitudes toward particular norms – regardless of the speaker. This uniformity of expression is crucial for explaining two key features of legal statements: their inference-licensing property (their capacity to generate rational pressure to either accept an argument’s conclusion or reject one of its premises) and their evidentiality (their ability to effectively inform audiences about speakers’ motivational states). Third, the relationship between legal statements and desire-like states is best understood through the mechanism of generalized conversational implicature, rather than through conventional implicature, presupposition, or illocutionary force. This pragmatic approach successfully explains both the regular connection between legal statements and motivation and the characteristic features of desire-like states they express – their determinacy, reinforceability, non-detachability, cancelability, and calculability. These findings support an externalist account of the relationship between legal statements and motivation. Rather than positing a conceptually necessary relationship between legal judgments and motivational states, we can explain their characteristic connection through the general action-guiding purpose of legal discourse.

This theoretical framework opens several promising avenues for future research. First, it invites deeper investigation into the semantic analysis of descriptive content of legal statements – specifically, what stands in relation to a particular norm N when we assert “It is the law that N”. Second, the framework merits systematic comparison with alternative approaches, including both pure cognitivism and pure expressivism, as well as non-Humean frameworks such as inferentialism. Finally, this theoretical account has important practical implications, particularly for understanding how legal discourse functions within broader socio-political contexts. This last point proves especially relevant for addressing contemporary challenges to legal authority, such as the populist critique that legal statements merely express personal preferences.

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