

Understanding social norms and constitutive rules: Perspectives from developmental psychology and philosophy

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Published online: 15 June 2015

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Abstract An experimental paradigm that purports to test young children’s understanding of social norms is examined. The paradigm models norms on Searle’s notion of a constitutive rule. The experiments and the reasons provided for their design are discussed. It is argued that the experiments do not provide direct evidence about the development of social norms and that the concepts of a social norm and constitutive rule are distinct. The experimental data are re-interpreted, and suggestions for how to deal with the present criticism are presented that do not require abandoning the paradigm as such. Then the conception of normativity that underlies the experimental paradigm is rejected and an alternative view is put forward. It is argued that normativity emerges from interaction and engagement, and that learning to comply with social norms involves understanding the distinction between their content, enforcement, and acceptance. As opposed to rule-based accounts that picture the development of an understanding of social norms as one-directional and based in enforcement, the present view emphasizes that normativity is situated, reciprocal, and interactive.

Keywords Social norm · Constitutive rule · Rule game · Compliance · Intersubjectivity · Situated normativity

1 Testing young children’s understanding of social norms

Normativity is central to humanity, and any theory about what makes us human needs to consider it. As Tomasello and Carpenter (2007: 124) assert, social norms “play an enormously important role in maintaining the shared values of human cultural groups”.

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Developmental psychology explains how and when normativity emerges, what functions it involves, and why sometimes children develop abusive behaviour or fail to comply with existing norms. Conceptual analysis and philosophical theories play a fundamental role in such investigations, in contributing to the understanding and definition of normativity, specifying what functions and behaviour to code and test. In psychology, conceptual analysis promotes the validity of empirical investigations and ensures that operational definitions correctly reflect the theoretical base (cf. Machado and Silva 2007).

This article aims to contribute to the research on the origin and foundations of normativity by examining some experiments that test children's understanding of social norms in pretend play (e.g., Rakoczy 2007, 2008; Rakoczy et al. 2008; Wyman et al. 2009a). The experiments have exerted, and continue to exert, a strong influence on recent research on the sources of normativity, not only in developmental psychology, but also in related areas such as philosophy, ethics, and comparative psychology. However, the question is whether the conception of normativity that the experiments rely on is coherent. I will argue that it is not and consequently that the interpretation of data is inaccurate. While the experiments give valuable insight into children's understanding of the arbitrary nature of social institutions and the ontological structure of the social world, they do not say much about the development of normativity. In the final section I present an alternative framework that pictures normativity as interactive and situated and based in certain conceptual distinctions that may be used to code and test behaviour in future research on the development of normativity.

The goal of the studies is to determine whether young children appreciate the normative structure of rule games and games of pretence and the context-relativity of normative rules (Rakoczy et al. 2009; Wyman et al. 2009b). Rakoczy and colleagues give two reasons why such investigation is crucial for explaining the development of normativity. They claim that (1) games share their normative structure with the social world, and (2) previous research on the development of norms has neglected the core of normativity, viz., its dependence on constitutive rules.

Both claims are problematic. They take their starting-point in Searle's (1995) theory of human social reality as a construction of objective social and institutional facts by way of constitutive rules. This, I submit, is what leads Rakoczy and colleagues astray. Searle's theory is in the field of ontology, and on the basis of his theory constitutive rules cannot be identified with norms. Yet the experiments target normative understanding and social norms, i.e., norms that organise and coordinate interaction between people and give structure and harmony to social activities.

Concerning the first reason, Rakoczy et al. (2009) maintain that the normative structure of rule games and games of pretence underlies the whole of institutional reality and is central to human forms of life. If true, this claim would justify the belief that investigating young children's awareness of the normative structure of rule games is sufficient to explain the development of normativity in general. In defence of the claim, Rakoczy et al. (2009) argue that the basic normative structures of games and the social world both depend on the collective assignment of status function to entities. What does this mean?

According to Searle (1995, 2008, 2010), status functions are conventional and arbitrary functions that objects have because the users collectively ascribe them, using so-called constitutive rules. Constitutive rules have the form "X counts as [constitutes]

Y in context C". They are created by declarative speech acts, and determine institutional facts. They tell us that, in a certain context (say, a game of football), an action of type Y (say, scoring a goal) can be accomplished by performing an action of a different type, X (say, kicking the ball into the goal) (cf. Glüer and Wikforss 2009b). Likewise, an entity of type X can count as an entity of a different type, Y. Systems of constitutive rules create, or bring into existence, human institutions such as financial, government, education, and legal structures.

Quite advanced linguistic abilities are necessary to understand constitutive rules and institutional facts (Searle 2008, 2010), and to appreciate the structure of rule games such as Monopoly and chess. Searle (2010: 57) explains that what people think of as social objects are in fact placeholders for a pattern of activities. In line with this, children's pretence games have names or descriptions (Let's play Doctor! Let's play Batman!). The names subsume the kind of activity that constitutes the game, and assign certain roles and functions to those who play the game and the artefacts that appear in it (e.g., I'm the doctor! This is the scalpel!).

However, there are substantial differences between children's games and the institutional facts of the adult world. Paglieri (2005) points out one important difference between pretence games such as Doctor and Family and codified rule games such as Monopoly, chess, croquet, and football. The actions of pretence games are negotiable, whereas those of rule games are not (see also Alvestad 2010; Winther-Lindqvist 2009). To assign somebody the role or function of Nurse or Doctor does not entail a determinate set of rules, but assigning a piece of wood the function of Pawn certainly does. As opposed to pretence games, rule games constitute separate universes, unaffected by worldly contingencies. Although they stress the overall similarity between pretence and rule games, Rakoczy et al. (2009: 453) identify one more difference: As opposed to institutional reality, pretence play has local, transient and action-based contexts over which the children themselves have control, whereas rule games are context independent.

Concerning the second reason why investigating children's understanding of rule games would be essential for tracing the development of normativity, Rakoczy (2007) argues that previous studies of children's understanding of play have focussed on the understanding of regulative rules that govern already existing activities. According to Searle (1995), regulative rules have the form "Do X" or "If X, do Y" and ascribe causal usage functions to objects (chairs, cars, screwdrivers, etc.). Usage functions are weakly conventional in that they vary among cultures. They are not arbitrary, but depend on the causal properties of the objects to which they are assigned, and so cannot take any form or vary independently of the brute facts of the world. Rakoczy holds that, because previous experimental paradigms concern regulative rules, they have not examined the kind of normativity that is specific to human cultural practices. The latter kind of normativity, he asserts, is based on the understanding of constitutive rules and how such rules are used to create status functions.¹ It is true that previous paradigms have not specifically investigated constitutive rules. The question is whether constitutive

¹ As Rakoczy (2007) notices, in everyday life usage and status functions tend to blend, and the distinction between constitutive and regulative rules sometimes is difficult to maintain. Most activities involve both instrumental and conventional elements and apparently occur on a continuum. For instance, board games are more strongly conventional, while pool also relies on causal usage functions, as the goal is to get the ball in the hole, and using the queue is the means to do so (Rakoczy et al. 2008).

rules are as central to normative understanding and its early development as Rakoczy and his colleagues maintain. The present article answers this question mainly in the negative. Indeed, constitutive rules provide the background for the kinds of social norms that govern institutional reality, but do not themselves constitute norms.

von Wright's (1963: 15) distinction among rules, directives, and prescriptions throws light on the relation between constitutive and regulative rules on the one hand and social norms on the other. Rules are neither directive nor prescriptive, but determine how to carry out a given action, for example playing a game or speaking. They are constitutive in Searle's sense. Directives, or technical norms, similarly to regulative rules, are concerned with the means used to attain a certain end. Directives normalize or standardize existing activities, constraining the range of possible actions that a given activity affords. They determine existing behaviour by giving practical instructions on how to perform it, stating what to do and how, creating practices. Last, prescriptions are normative, stating that a certain action ought to be performed. Once a certain type of action has been constituted, it can be enforced by prescription. Prescriptions create general principles that make it possible to judge a certain type of human actions as right or wrong, i.e., the kind that essentially depends on constitutive rules.²

Boghossian (2008) makes a distinction that supports the non-normative interpretation of regulative rules. He maintains that rules can be construed either as a conditional proposition that specifies permissions and obligations of the form "If condition C obtains, you may (must) j", or as an imperative of the form "If C, do j!" that specifies requirements. The conditional clearly is normative, but the normative status of the imperative is, to say the least, uncertain (cf. Engel 2011). Per se, instructions do not tell us what kind of requirement is at issue — whether practical, semantic, epistemic, or social and normative.

To summarize, Rakoczy and his colleagues hold that (a) games and social reality alike are created by the declaration of constitutive rules, and (b) the kind of normativity that is specific to human cultural practices consists in the understanding of constitutive rules. Below, I will contest (b). This will involve challenging the experimental design and rejecting the interpretation of data, arguing that the experiments test children's understanding of constitutive rules, and not of social norms. I also suggest how the current experimental paradigm might be developed to test the understanding of a certain kind of social norms, viz., general rules of obligation.

2 The experiments

Rakoczy et al. (2009) assert that rule games and games of pretence share the normative structure of social reality. Consequently, if an individual can understand how norms function in pretend play, they can also understand the norms that underlie human forms of life in general. The experimental paradigm they use is designed to determine at what age children understand how norms function, by testing young children's

² One might say that rules prepare for normativity, directives are weakly or 'proto' normative because in proposing certain behaviour they also encourage the behaviour, and prescriptions are strongly normative in imposing certain behaving ("oughtness").

understanding of constitutive rules in games (e.g., Rakoczy 2007; Rakoczy et al. 2008). Hence, it presupposes that constitutive rules are essentially similar to social norms.

Rakoczy et al. (2008: 876) describe two of the experiments as follows:

In our studies, an adult showed 2- and 3-year-old children simple game actions, which they played together for some while. A third person (a puppet) then entered and (in the target condition) performed an action which was inappropriate, given the structure of the game (i.e., a mistake). Children's responses to these acts, in particular protest and correction, were investigated as indicators of their awareness of the normative structure of the game.

The studies concerned novel actions (the imaginary game "daxing") that the children learned to perform in the initial phase of the experiments. When, in the second phase, the puppet entered and performed another action that the children were not expecting, many of the children objected in explicit terms, correcting the puppet, and almost all protested to some degree.

The studies show that, by 2 years of age, children understand usage-based conventions of novel artefacts. By 3 years of age, they understand assignments of context-relative function in pretend play, respond negatively to third party deviations from the demonstrated way of playing the game, and attempt to correct wrong behaviour. According to Rakoczy's (2007) interpretation of the children's reactions, they saw the puppet's actions as not conforming to the social norm of daxing, and they enforced the norm. Rakoczy concludes that the experiments show that children who pass the tests have developed an understanding of social norms.

While the experiments test the understanding of constitutive rules, the conclusion from them concerns the understanding of social norms. This raises the question of how to interpret the data. What exactly do the experiments show about young children's understanding of norms? Rakoczy (2007: 60) asserts that protests against and critique of irregular action that include attempts to correct the action characterize appreciation of normative structure, whereas "mere surprise is the appropriate response when there are acts deviant from purely statistical regularities". He holds that such protest identifies real rule-following as opposed to mere acting in accordance with a rule.

However, an attempt to correct behaviour is not necessarily normative in the sense of referring to what a person should or must do and invoking "oughtness". Normativity requires that there is an ideal behaviour that should be displayed or enforced even if there are comparable alternatives. In contrast, corrective behaviour may simply indicate an attempt to explain how things are or how people actually do things, relying on factual knowledge.

Rakoczy et al. (2008) defined normative protests as utterances that involve protest, critique, and teaching with the use of normative vocabulary. An utterance was coded as normative (A) if it stated a general rule that describes the nature of a behaviour (in the present tense), (B) if it contained a deontic verb such as "must", "should", "allowed to", and "ought to", or (C) if it contained the words "wrong", "right", "correct", "incorrect". Their coding is not unproblematic (cf. Brandl et al. *this volume*).

First, condition (A) is not normative, because it does not invoke an arbitrary standard or ideal, but is descriptive. Second, as it happens, the words "wrong", "correct", etc.

that appear in condition (C) are ambiguous and may have a descriptive use corresponding to condition (A) or a deontic use corresponding to condition (B). Whether these words are used normatively depends on whether they appear in a descriptive or deontic context, which means that (C) cannot be used to code for normativity. Third, the deontic verb “allowed to” cited in condition (B) is normative only in a loose sense: It does not prescribe or proscribe behaviour but concerns what behaviour is permissible, or what can or may be done. There may be several permissible behaviours that are compatible with each other, none of them providing the norm. Hence, this expression cannot be used to code for the same type of normativity as the other expressions in (C).

We will return to the nature of normative protest below. I will argue that we cannot conclude from the children’s corrective behaviour that they understand the correct action as a norm nor have the concept of a norm. There are alternative, perhaps more modest, interpretations of the behaviour.

3 Social norms and constitutive rules

To recapitulate, the experiments show that 3-year-old children understand the assignment of status function in pretend play, respond negatively to third party deviations from the demonstrated way of playing the game, and attempt to correct wrong behaviour. According to Rakoczy’s (2007) interpretation, this means that the children see the puppet’s actions as not conforming to the social norm of how to *dax*, and enforce the norm. The interpretation presupposes that understanding the assignment of status function is the same thing as understanding normativity. Its truth hangs on whether this is correct, and on whether constitutive rules are in relevant respects similar to social norms. As mentioned above, the experiments test the understanding of constitutive rules, whereas the hypothesis – and the conclusion – pertains to the understanding of social norms. Next, I will argue that it is not constitutive rules per se that are normative, but the fact that they are enforced in certain ways.

To determine whether the concepts of social norm and constitutive rule are interchangeable, we first need to specify how Rakoczy and Searle use them. Rakoczy conceives of social norms as rules that prescribe appropriate behaviour and imply “oughtness”: You *should* or *must* follow the norm. That a rule is proscriptive or prescriptive means that it provides a general standard or ideal: It spells out the only acceptable way of performing a certain type of action – even if there are equally efficient ways of doing it and the norm is arbitrary. Furthermore, social norms make people accountable to each other and worthy of praise or blame. People disapprove of deviations from the norm and respond by enforcing it, correcting wrong behaviour and penalizing violations. Searle has a similar view of social norms, and emphasizes that, in prescribing certain uses, norms make abuse possible.

The view that social norms are rules of obligation, enforced by formal or institutionalized sanctions, has been criticised. Thus Bicchieri (2006: 38f) holds that people conform to social norms as a function of their preferences and other people’s preferences and expectations, without external policies and sanctions. She points out that in real life the boundaries between conventions and social norms often are blurred. What one person experiences as a social norm, another person perceives as a convention and is motivated to follow only if it is externally regulated. Pettit (2002)

argues that social norms concern what people approve and disapprove of and reflect their positive and negative attitudes. He claims that being thought of well or badly is sufficient to motivate conformity, and that obligation may be the result of individual agents' decision-making and interpersonal relations, independent of institutional structures. On this alternative view, adhering to a norm in the strong sense of both accepting it and being motivated to act on it entails personal commitment to it (cf. Boghossian 2008; Glüer and Pagin 1999). The commitment will oblige the agent to behave in a certain way. For present purposes, the reader should bear in mind that Searle and Rakoczy hold that normativity is not reducible to the behaviour (of whatever kind) of individuals but is conventional and institutionalized. The final section cites evidence from developmental psychology that supports the alternative view that normativity is based in the interaction between individual agents.

As opposed to social norms, constitutive rules do not imply "oughtness" in any obvious way. They describe how things are, not how things ought to be (Millikan 2014). Millikan explains that the rules of a game do not tell you what to do, but only what to do if you wish to play chess, and consequently endorse the rules. In themselves, they are not mandatory. The constitutive rules that underlie assignment of status functions define institutional facts in the guise of activities, e.g., marriage, political election, education, and the roles of objects and individuals connected to such activities, e.g., bride, priest, secretary of state, teacher. They are performatives that by representing an institutional fact make that fact come into existence (Searle 2010: 12 f.), stating what an entity *X* counts as, or constitutes. To use one of Searle's examples: Suppose you go to the pub with Mary, Janice, and George. You buy a pint of bitter and then declare, "This is Mary's beer" while pointing at the pint. This declaration brings a particular beer into existence: Mary's beer. Other examples are "This kind of beanbag counts as a chair" and "This move of pieces counts as checkmate in the game of chess".

Constitutive rules "create the possibility of new forms of behaviour" (Searle 1969: 35). The behaviour may be governed by social norms or, as in the following example, by property rules: Once the beer has been declared Mary's beer, Mary knows that she is entitled to it, whereas George knows that he should not drink it unless Mary specifically invites him to do so. Likewise, George's sister Janice knows that she should stop her thirsty brother from drinking it, unless Mary allows him to do so. Thus, when a constitutive rule is used to ascribe a status function to an object or person relative to a context, the rule opens up a space of possibilities for action and activities in that context. This space has deontic properties that concern what can or may be done and, sometimes, what ought to be done.

The identification of constitutive rules with norms is surprising in view of Searle's (1969) denial that, generally, constitutive rules are prescriptive. Searle asserts that constitutive rules are not norms that may be violated in the normal sense of the word, and of which violations are penalized. To illustrate, he writes "after all, what penalty is there for violating the rule that baseball is played with nine men on a side? Indeed, it is not easy to see how one could even violate the rule as to what constitutes checkmate in chess, or touchdown in football" (1969: 41). Constitutive rules determine what counts as doing *Y*, but neither commit or entitle anybody to perform *Y*. They do not proscribe or prescribe any action, but introduce a new kind of activity. For instance, the rules of football neither commit a player to scoring a goal nor tell them not to do so. The rules

say what counts as scoring a goal (what it means to score a goal in football), but do not determine what the players should do. In short, they provide a description.

Searle's contention is problematic for the interpretation of the data because, given that Searle is right, the experiments demonstrate that children understand the assignment of status function – but they do not show that children understand the normative properties that are associated with it. The point I want to make here is that constitutive rules define, but do not enforce, behaviour. It is vital to grasp this distinction to understand normativity.

It seems reasonable to agree with Searle (1969) that constitutive rules cannot be violated, in as much as such rules create the very activity they define. Violating the rule means changing the game (cf. Rawls 1955). Performing another action than the one that has been stipulated to constitute a given activity changes the rules, and if you change the rules, you change the game. In brief, you cannot modify the rules that constitute an activity without changing its very essence.

Searle's account of constitutive rules is strongly influenced by Rawls's (1955) concept of a practice. This means that Rawls' concept of a practice can be used to elucidate Searle's notion of a constitutive rule. Rawls (1955: 3) uses the word practice "as a technical term meaning any form of activity specified by a system of rules that defines offices, roles, moves, penalties, defences, etc. that gives the activity its structure. As examples, one may think of games and rituals, trials and parliaments". According to Rawls, the practice is logically prior to the actions it defines, and gives the terms referring to those actions their sense. Only by reference to the practice can one explain what one is doing. Rawls underlines that many of the actions one performs in an activity can be performed whether there is a game or not. He goes on: "For example one can throw a ball or run etc. But one cannot e.g., steal base or strike out. These are actions that can happen only in the (a) game and they define the game".

Learning a practice means to be instructed in the rules that define it. Appeal is made to these rules to correct the behaviour of those engaged in the practice who recognize the rules as defining it. Rawls makes it clear that, with the practice conception of rules, it does not make sense for a player of a game to question the rules. Either you follow them or you are not playing the game. This is how Searle conceives of it, too.

In later work, Searle (1995: 48) asserts that, where the imposition of status function according to the formula "X counts as Y in C" becomes a matter of general policy, the formula acquires a normative status. This is to say that constitutive rules with a wide acceptance entail norms. However, this does not mean that constitutive rules are norms. Generalized constitutive rules create the possibility of abuses that would not exist without the rule (e.g., the creation of money made counterfeit money possible).

Searle claims that the possibility of abuse is characteristic of institutional facts that are surrounded by policies. I believe that this claim is key to understanding the relation between constitutive rules and norms. Policies and guidelines that enforce constitutive rules confer a normative dimension on the rules that rules do not have on their own. Constitutive rules and the institutional facts that they create are not prescriptive in themselves. A constitutive rule identifies and defines a new action or activity Y. Once the rule has been declared, there is the possibility to enforce it and create a policy for performing it. To emphasize, normativity does not ensue from grasping the notion of a constitutive rule, but from understanding "oughtness" or the concept of obligation. In

cases that involve institutional facts, the concept of obligation concerns the conditions of being morally or legally bound to do something.

Glüer's and Wikforss' work on normativity lends support to the present view. Distinguishing between the creation and enforcement of a constitutive rule, Glüer and Wikforss (2009a) forcefully argue against the claim that constitutive rules in themselves are normative. It is one thing to understand that there is such a thing as money, another to know how it should be handled. Likewise, it is one thing to understand what the concept of marriage entails, and another to obey the obligations that follow marriage. In their view, what is significant to understanding normativity is to recognize what it means when a constitutive rule is in force. This involves the ability to distinguish between the case when a constitutive rule is used to define an activity, say, daxing, and the case when daxing becomes the norm, i.e., a standard that people should conform to or follow, and violations of which have negative consequences for the violator.

Hence, it is not the constitutive rule that is normative, but the fact that it is enforced by a person or body with the power to prescribe (proscribe) certain behaviour, e.g., a legal institution or government, a legislator (cf. Rawls 1955). In the first instance, it is the policy-maker who ascribes normative force via policies and guidelines, whereas the normative force of the constitutive rule is indirect, or derivative. Policies guide decision-making and are especially important for collective decisions in collaborative institutional contexts, thus playing a central role in politics, education, health care, and so on. They protect against value-instability in the continuously changing environment that everyday life affords.

Glüer and Wikforss (2009c) discussion of the nature of application conditions throws additional light on the concept of a constitutive rule. They distinguish between prescriptive rules and rules that state the conditions of application of a concept or word, claiming that the latter do not enforce behaviour. Application conditions describe the correct usage, but do not in the strict sense entail that the application in question is the one that ought to be followed. Glüer and Wikforss (2009a) compare application with categorization, for example sorting things into tables and non-tables. Categorization is non-normative – or normative in the trivial sense in which any categorization would be normative: Categories permit sorting, but do not force you actually to do so. Whereas sorting rules may be used to derive normative consequences indirectly, in themselves they are not normative. Deriving normative consequences is possible only if a suitable norm is in force. To use Glüer's and Wikforss' example: If a suitable norm is in force, e.g., the norm that tables ought to be kicked under all circumstances, then normative consequences can be derived from something's being a table. Likewise, normative consequences can be derived from a constitutive rule only if a suitable norm is in force.

To conclude, a constitutive rule that introduces an institutional fact, say, "This [piece of paper] counts as money", creates the possibility of a range of actions that would not exist without the rule. Some of these actions will be recognized as appropriate or approved uses (paying bills, receiving salaries), others as abuses (counterfeit money, bribery). There will be norms for actions that the rule eventually may subsume. In most societies, once an institutional fact has been created, policies (policy-makers) determine which actions are uses and which are abuses. To exemplify, some societies accept special taxes on luxury goods or alcohol, others have shops with attractive goods and special prizes exclusively for people using foreign as opposed to national currency (cf.

the Beriozka shops in the former Soviet Union). Importantly, policies can change and replace each other, while the constitutive rule they enforce remains the same.

4 Re-interpreting the data: critical points

The experiments focus on young children's reactions to violations of rules for behaviour, on the assumption that corrective protests against irregular actions indicate an appreciation of normative structure. However, corrective behaviour as such is not an indicator of normativity (cf. Brandl et al. [this volume](#)). It is just as likely that protest is motivated by a desire to correct misunderstanding of the constitutive rule. Then protest is meant to inform rather than enforce, and indicates an appreciation of the ontological structure of the social world. This section compares what happens when, respectively, constitutive rules and social norms are violated. The comparison shows that violation has different consequences in the two cases and, therefore, that conflating constitutive rules and social norms in the experiments has significant effects on the outcome.

First, consider the following violation of a constitutive rule:

CR_{teacher}: Certain people [those with a given education, age, manner, etc.] count as schoolteachers in Sweden

Suppose that a man is assigned the status function of a schoolteacher without meeting the corresponding criteria. Perhaps it turns out that his university diploma is falsified, or that the board that offered him the job misunderstood the criteria and applied them incorrectly, and so appointed a person who does not qualify (say, has the wrong diploma). In both cases, the constitutive rule will misfire, i.e., it will not apply. Once the forgery of the diploma or the misapplication is revealed, the man will no longer count as a teacher.

Compare this to what happens when the norm for being a schoolteacher is violated. The norm regulates schoolteachers' duties. Recall that policies surrounding status functions determine what actions count as the use or abuse of them. Now suppose that the man is entitled to his status function, but abuses this function by neglecting a teacher's obligations, e.g., is turning up late at school, hitting the children, or playing computer games all day long. Then he violates the norms but nevertheless will count as (be) a teacher.

Austin (1975: 14ff) introduced the distinction between misfires and abuses in discussing unhappy performative utterances. The distinction holds between cases when the act in which the utterance is supposed to result "does not come off, is not achieved" because it is not successfully performed, and cases when the act "is achieved, although to achieve it in such circumstances, as when we are, say, insincere [when making a promise], is an abuse of the procedure". Misfires are empty and without effect, while abuses are recognized and acknowledged but not consummated.

Violations of constitutive rules have different consequences from violations of social norms. The former result in misfire and the status function will simply cease to apply. Violations of norms result in abuse; although there will be sanctions against the person (measures will be taken), they will retain their status function and be entitled to continue teaching. As I will show, the fact that violations have different outcomes in

the two cases plays an important role in the interpretation of the experimental data, to which we now return.

The experiments are built around the constitutive rule for daxing: Action A counts as daxing. The paradigm is divided into three phases. In the model phase, an adult shows 2- and 3-year-old children new game actions. The adult performs actions A1 and A2. A1 is marked as “daxing”, A2 as an accidental mistake. In the action phase, it is the child’s turn to play the game of daxing. In the test phase, a third person (a puppet) enters and announces “I’m gonna dax now!”. In the target condition, the puppet performs an action that is mistaken, given the structure of the game. Children’s responses to these acts, in particular protest and correction, are taken as indicators of their awareness of the rule structure of the game.

Now consider the test phase. The crucial issue concerns how to describe the situation when the puppet enters and says “I’m gonna dax now!”, but performs another action. Is this a case of misfire or abuse? Does the puppet misunderstand the constitutive rule or breach a social norm? Which description is correct? According to Rakoczy’s (2007) interpretation of the children’s reactions, the children saw the puppet’s actions as not conforming to the social norm of how to dax, and enforced the norm.

I submit that this interpretation is wrong. To see why, consider what would happen in the case of abuse of the rule – as opposed to what actually happened in the experiments, which, I think, constitute cases of misfire, i.e., violations of the constitutive rule. Suppose that the puppet performs A1, but in an irregular instead of mistaken way, e.g., while hiding the action from the adult, perhaps with its back towards the adult or behind a curtain, or is performing it in a scary manner or violently in an attempt to hurt other players. Performing A1 in such a way would be a case of abuse of the constitutive rule. Irregular use does not amount to misfire, because the action that the constitutive rule describes is still performed, although inappropriately. An irregular action would constitute a violation of the norms that surround daxing: The puppet would be daxing, but incorrectly. The social norms that pertain to daxing form a policy that determines how that action, once introduced, should be implemented and applied.³ For instance, the policy states that daxing is played together and peacefully, a norm that is violated in the cases described in the present paragraph.

However, if the puppet instead had performed A2, the mistaken or wrong action, this would indeed be a case of misfire: A2 constitutes another action than the one stipulated to count as daxing, and therefore the act misfires. Performing the wrong action does not count as daxing, simply because that action does not meet the criteria for daxing.

The following parallel example may help to bring out my point. It concerns scoring a goal in football, and has two versions. Notice that the ways in which the players express themselves are modelled on how the children do so in the videos from the experiments.⁴ In the first version, Player 1 says: “Now I’m going to score!”, then deliberately sits down behind the ball, touching it with his back, and stays put. Player 2

³ Notice that the norms that pertain to daxing are not exclusive to daxing. As opposed to constitutive rules, social norms are not specific to a certain activity.

⁴ The players’ utterances are taken from the videos from the experiments and mirror how the children express themselves. I have replaced the word “daxing” by “scoring a goal” in one utterance. My interpretation of the force of the utterances is within [...]. The fact that the children have not yet gained mastery of their maternal language illustrates the difficulty of using verbal data to determine whether they are making normative judgments or, say, are giving advice (cf. Brandl et al. *this volume*).

protests: No, that's not scoring a goal! You can't do like that! It's wrong [mistaken]. I'll show you [how to do it]!

In the second version, Player 1 says: "Now I'm going to score!" then pushes the goalkeeper to the ground with his hands while kicking the ball into the net. Player 2 protests: No, that's not scoring a goal! Don't do that! You can't do that! It's wrong [forbidden]!

In the first version, Player 1 has misunderstood the constitutive rule of scoring a goal. He does not seem to know what it means to score, performing an action that is not regulated and for which there are no norms. As Rawls (1955) emphasized when discussing the practice view, it does not make sense to question the rules of a game. Either you participate in the practice and then perform the actions it involves, or you are not participating in it. Actions that do not pertain to the practice cannot be sanctioned. Player 2 responds to Player 1 by telling him that he is doing something wrong, or mistaken. Then he offers to help and show Player 1 what counts as scoring, thus making it possible for Player 1 to redeem and perform another action, viz., one that is regulated within the boundaries of the game.

In the second version, Player 1 violates the norms for how to score a goal. You are not supposed to push the goalkeeper out of the way, but just kick the ball past him into the goal. Player 1 commits a foul and therefore does something forbidden. Nevertheless, he is participating in the practice. Player 2 responds by telling him off and reproaches him for acting wrongly, or incorrectly, as it seems, implicitly assuming that Player 1 himself recognises that he did something he should not have done. What Player 1 did may result in his being sent off the ground.

I submit that the children who participated in the experiments reacted to the puppet's misunderstanding of the constitutive rule in the same way as Player 2 reacts to the behaviour of Player 1 in the first version of the example above, and attempted to show the puppet what counts as or constitutes daxing. My interpretation fits with their actual utterances (e.g., "You can't do that! It is wrong!", "I'll show you, this is how you dax!"). Moreover, it makes sense given that the daxing game initially offers an explicit definition (the constitutive rule) of daxing. The children do not believe that the puppet violates the norms for daxing, but that the puppet is not daxing at all (but is doing something else).

A recent study (Köymen et al. 2014) of how children negotiate social norms with peers indirectly supports the view defended here, i.e., that 3-year-old children take the rule for daxing to be constitutive and not normative. The study suggests that 3-year-olds are not yet capable of a normative reading of game rules. In Study 1, pairs of 3- and 5-year-olds and in Study 2, pairs of 5- and 7-year-olds were presented with sorting tasks with identical or conflicting instructions (one child by colour, the other by shape). In their protests, 3-year-olds, as opposed to older children, almost exclusively used objectifying inanimate middle constructions ("It works like this", "This goes here", "This is not right"). They also reminded their peers of the "correct" rule of the game and did so in both the conflicting and compatible conditions. When facing conflict about the rules of the game, 3-year-old children insisted on their rule for longer and were more reluctant to consider the other rule as a plausible alternative than older children. Somewhat surprisingly, Köymen et al., maintain that by 3 years of age, children are aware of conventional norms and respond to violations of them by referring to the rule. The use of social norms to structure their interactions with others,

especially peers, continues to develop and becomes more flexible into the school years (cf. Brinck 2014).

A more reasonable interpretation of the results is that 3-year-olds do not yet know much about how social norms interact with the rules that define an arbitrary social activity. The distinction between constitutive rules and social norms enables us to explain the children's behaviour in precise terms. I take it that the study by Köymen et al. shows that 3-year-old children are incapable of a normative reading of game rules, and focus on their defining, constitutive function. Their behaviour demonstrates that they do not have a normative understanding of the underlying rules of the sorting tasks. They behave exactly as would have been expected had the experiment been designed to test their understanding of constitutive rules.

Using sorting tasks to test normativity very likely is counterproductive. Glüer and Wikforss (2009a) convincingly argue that although categories permit sorting, they do not force anybody to do so. If they are right, it would mean that whatever the underlying intention, sorting tasks test the understanding of constitutive rules – or possibly directives (cf. von Wright 1963). Which interpretation is correct, remains to be settled empirically.

Older children (5- and especially 7-year-olds) more often stated norms (“You must do it like this”). When facing conflict or ambiguity 7-year-olds actively brought normative order to their peer interaction and negotiated and agreed on a new rule. This suggests that by 7 years, children understand general rules of obligation and can disregard existing constitutive rules and create new games and policies. The outcome of the experiment underlines the significance of distinguishing between rules and norms in developmental accounts.

One might object that the fact that the children react so strongly to the puppet's behaviour implies that they act normatively and are reproaching the puppet for not following the official rule. This is hard to prove empirically. More probably, the strength of their reactions is caused by the puppet's stubborn refusal to listen to what they say or engage with them. Personal rejection can be very emotionally distressing, especially when, as in this case, it runs counter to what may be expected, given that the puppet had declared its intention to *dax*. That the puppet repeats the same mistaken behaviour without paying any attention to what the children are saying is likely to cause increasing anger and frustration.

The following consideration bolsters the present view: Had the children thought that the puppet was a violator in the sense that Player 2 is, their initial reaction would not have been to volunteer to inform.⁵ Rather, they would show anger and disappointment, reacting by blaming the puppet, perhaps punishing it. Yet the videos make it clear that they try to help. They do not get angry until it becomes clear to them that the puppet refuses to take their advice and follow their instructions. Thus, it is the careless behaviour of the puppet that eventually makes the children so insistent, not how they conceive of the violation – whether as a constitutive rule or a norm.

Schmidt et al. (2012) oppose a helping interpretation in a study that is reminiscent of the one discussed here. First, they argue that many of the protesting children uttered

⁵ This does not mean that transgression of social norms inevitably leads to anger. As Nagel (1998) argues, relational conventions help us to restrain ourselves and enable civilized engagement with others. The point here is that the children direct their corrections at constitutive rules, not social norms.

clear disapproval in the sense of critique (“That is not how it is done!”) or tattling (“Look, he is doing it wrongly!”), that cannot be reconstructed as mere helping or informing. I have touched upon this objection in previous paragraphs. One might add that criticism can be constructive. In fact, to identify an error and explain that somebody makes a mistake or is wrong is a first, in many cases indispensable step towards helping or informing about the truth.

Second, Schmidt et al. show that children treat ingroup and outgroup members equally in instrumental tasks, but protest more against ingroup members in the game tasks. If the children were trying to help, they argue, then the effect should be the same or even stronger in the instrumental task, which is obviously one where help is needed. The children should prefer to intervene against ingroup members – but they do not. I agree with Schmidt et al. that the reason why the children act differently in the two cases is that they recognize that the cases involve different conditions. One case involves the recognition of a regulative rule that describes the (causally) most efficient way of reaching a goal.

We disagree about the other case. I maintain that the children recognize that the task concerns a constitutive rule and not a social norm (the phrasing, e.g., “That is not how it is done!” supports my interpretation). The reason that they react more strongly to ingroup members in the game task is that the narrative has established a bond or emotional commitment to the ingroup puppet. It is less obvious for them that the game should include the outgroup puppet because that puppet does not concern them. The constitutive rule holds for any player of the game, but mutually concerns only players who are playing together (ingroup members). One might say that subjects who are playing together approach the game in a *we*-frame (Tomasello and Carpenter 2007).

In the instrumental task, the rule holds equally for everybody who engages in the task. However, there is no point in insisting on it, because there may be other ways to solve the task and, moreover, the children are not personally involved in the outcome of the puppet’s action. In contrast, in the game task, it is vital that the puppet understands the constitutive rule, or they will not be able to play the game at all. As emphasized above, games are defined by constitutive rules. Neglecting the rules entails not playing the game.

To summarize, the puppet performs an action that is different from the one that pertains to the game, and the constitutive rule misfires. In view of this, the children react negatively and try to correct the puppet. They react to the puppet’s misunderstanding of what it means to *dax*, and attempt to show him how to *dax*. Evidently, correcting a misunderstanding is not the same as enforcing a social norm.

5 How to deal with the criticism within the present paradigm

I have argued that the experiments concern children’s understanding of the notion of a constitutive rule, and only indirectly their understanding of the notion of normativity. This is not surprising, since the experiments model norms on constitutive rules. However, it has far-reaching consequences, because the purpose is to explain the development of normative understanding. So far, few have questioned that the experiments contribute to the explanation of normative development, or looked into the difference between constitutive rules and social norms in relation to the experiments.

I have two suggestions for how one might deal with the present criticism without abandoning the experimental paradigm. First, Rakoczy et al. (2008) describe the children's protests to the third person's mistakes as "normative". Instead we can refer to them as "informative". This does justice to the data, emphasizing that 3-year-old children inform and instruct each other about the meaning of constitutive rules and are aware of the nature and function of such rules. The experiments show that young children understand declarative speech acts, and that constitutive rules create arbitrary social facts. More specifically, they show that 3-year olds but not 2-year olds (i) understand the effects of declarative speech acts (what declaratives entail), e.g., that they have a general application (for every subject in C, X counts as Y), and (ii) engage in teaching: In correcting the puppet, the 3-year-olds attempt to inform it about the definition and give instructions for daxing.

Second, I suggest designing a new version of the experiments that would test the same age groups for genuine normative protests and, while preserving the over-all structure of the experiments, would involve attempts to correct social norms. The error in the design of the original experiments consists in putting the emphasis on protest and correction in general and considering such behaviour an indicator of normative awareness. Because protest and corrective behaviour can occur in a variety of situations, such behaviour does not specifically target social norms or normativity. It is necessary to consider what type of actions the corrective behaviour is directed at. To test normative understanding, the experiments need to pinpoint abuses of the fact that is created in the experiment, and accordingly include irregular ways of daxing (cf. the football example in section 4). Abuse amounts to a violation of the social norms for daxing.⁶ Still, this move does not come to terms with the fundamental problem: that the experiments rely on an erroneous conception of social norms as identical to institutionalized rules of obligation.

The aim of the previous sections has been to establish the difference between constitutive rules and social norms and show the importance of recognizing this difference for explaining the development of normativity. Data suggest that 3-year-olds understand constitutive rules and that the understanding of social norms in the guise of general rules of obligation emerges much later. Other data show that infants develop sensitivity to compliance already in the first year of life. In the next section I present a more nuanced view of normativity than Rakoczy's and colleagues, that allows for explaining the development of normativity as a gradual and extended process that continues into adolescence. On this view, social norms are dynamic patterns of interaction (Brinck 2014). Because the appropriateness of action depends on social and material properties of the concrete setting in which action takes place, normativity is situated (Brinck 2014; Rietveld and Kiverstein 2014).

6 A new framework for investigating the development of normativity

The rejection of the account of social norms in terms of constitutive rules creates the need for an alternative that can tell us what abilities to test to gain further insight into

⁶ Because this section concerns a particular experimental paradigm and how it might be improved, I do not discuss other ways of not respecting social norms than the abuse of arbitrary social facts.

children's understanding of social norms, and can generate fruitful and testable hypotheses. Philosophical analysis of what it means to comply with a norm or rule reveals a great variety in our conception of normativity. It can provide the framework for an alternative account by allowing for hypotheses that target specific ways of understanding normativity, each particular way reflecting an aspect of the complex conception of normativity of adults. The present assumption is that the development of normativity is an extended process that consists in coming to understand these different aspects one after another. Provided that operational definitions can be given of the results of the analysis, this framework would permit examining issues such as how and when norms acquire their "oughtness" to children, what compliance amounts to at different points in development, and what children need to understand about social norms to comply intentionally. Next I will review research in philosophy that shows that the notions of a social norm and normativity are complex and that a full understanding of them requires recognising several fine conceptual distinctions. It seems reasonable to assume that these distinctions will not dawn on children at one single moment in development, but develop piecemeal — how exactly remains to be investigated empirically.

Glüer and Pagin (1999) make a useful tripartite distinction among knowing (and understanding) a rule or norm, believing it to be in force, and being motivated by it.⁷ They emphasize that "simply knowing a rule isn't enough to be motivated by it" (1999: 212). Even when a rule is stated from a general, third-person perspective as being in force and is thought to apply to an agent, it still needs to be accepted for them to follow it. A rule can be in force for an agent without in any sense guiding or motivating the agent's actions. Glüer and Pagin conclude that, in order for a rule to have motivational force, the agent must have an attitude of acceptance of the rule.

Following this lead, Glüer and Wikforss (2010) clarify that to be guided and motivated by a rule, except for believing that the rule is valid, it is necessary to believe that it is in force for oneself. This is what it would mean to accept a rule. While these conditions are motivating, they allow for complying with a rule while not approving of it or while disliking it. Being motivated by a rule on purely rational grounds does not seem to have the same benefits or spin-off effects as motivation that involves approving of the rule in the sense of appreciating it. A norm will be motivating in this positive sense if in addition the agent desires the rule to be in force for her. Motivation in this positive sense is beneficial for learning and can be expected to play a role for compliance in infancy. Infants have no sense of duty and cannot comply by rational deliberation.

Glüer and Wikforss (2010) assert that being guided and motivated by a rule stands in contrast to merely acting in accordance with it. Acting in accordance with a rule is neither necessary nor sufficient for being guided by it. For instance, one might be acting in accordance with a norm because one is forced to do so by an authority. Forcing children to act in a certain way will not promote voluntary compliance. However, the

⁷ Glüer's and Pagin's (1999) analysis indicates that rule following is more intricate than the account in terms of collective intentionality has it (cf. Rakoczy and Tomasello 2006; Tomasello et al. 2005). In collective intentionality, two or more subjects share an intentional "we" attitude that cannot be reduced to individual intentions, but essentially involves thinking of the activity in which one is involved as joint, as something that one does together. In spite of its complex cognitive structure (Rakoczy et al. 2009: 111), collective intentionality is supposed to develop during the second year of life. The notion of collective intentionality is too general to explain the complexity of social normativity. Unfortunately, space does not allow me to elaborate on this.

opposite case also seems possible. Being guided and motivated by a rule is not sufficient for acting in accordance with the rule. A subject may be guided in their actions by a rule, but fail in their effort to act in accordance with it. They believe it is valid and in force for them, but cannot implement it. This often is the case with young children, who e.g., may not have the skills or means required to manage to act accordingly, or cannot control the sudden impulse to act in a way that runs counter to the rule. Normativity is in part a technique that requires both cognitive and sensorimotor skills.

There are examples of compliance that do not match the analysis. Sometimes the mere belief that a norm is in force gives sufficient reason to act in accordance with the norm, without accepting the validity of the norm and believing it to be in force for oneself, and without being forced to do so. For instance, in case the norm is of no concern to the self, one might act so as to satisfy others' expectations on one's own conduct to reduce or keep low the cognitive costs. Furthermore, compliance can emerge from the mere desire to conform by imitating others: to do as others do and be like them (Brinck 2014). It can even stem from laziness or the pure unwillingness to engage with the environment that disobedience might require. These examples are not intended as counterexamples. The point is that the analysis of compliance give us the tools to discern various forms of increasingly complex cases and discuss the status of what appears to be imperfect forms but may be variations on the ones that the analysis has revealed.

In the next paragraphs I review research in developmental psychology that indicates that compliance develops very early and takes a variety of forms in the course of development. I suggest that Pagin's, Glüer's, and Wikforss' framework can be used to identify a few basic forms, and also that it may provide the starting-point for investigating what cognitive functions these may presuppose. Several studies provide evidence of the presence of normativity that is unrelated to the understanding of constitutive rules and declaratives. The studies cited below explain how shared practices can provide infants with reciprocal expectations on behaviour that facilitate social interaction and the functioning of social activities in the first years of life, confirming the presence of normativity before they have developed an understanding of constitutive rules.

Thus, a cross-cultural investigation of compliance in 6.5–12.5-month-old infants showed that compliance increases gradually (Reddy et al. 2013). It emerged as a shared practice in everyday routines between parent and infant in which acts of directing and complying mutually enhanced each other. A related account is given by Rossano (2012). He argues that infants extract general emotion-laden expectations or rules regarding how to evaluate and behave towards objects and people from early ritualized social interactions, and that the infants' emotional connection to these expectations is normative. The expectations are based on interactive patterns of authority and compliance with adults, and on the perception of uniformities in others' behaviour that relate to positive or negative values. To exemplify, a mother's failure to conform to the infant's expectation of contingent behavioural exchange causes distress in the infant by 2 months of age (cf. Reddy 2008: 75–76), and by 4 months of age, laughter is elicited by actions that deviate from the norm, such as being kissed on the belly or having air blown in the face.

Evidence that infants become sensitive to morality by mere passive observation might seem to contradict the view that the understanding of social norms emerges from interaction. Sloane et al. (2012) showed that by 20 months infants react to violations of fairness norms, as assessed via their enhanced visual attention to unfair versus fair outcomes in violation-of-expectation paradigms. However, that normativity develops through social interaction does not exclude the possibility that certain aspects may be understood by observation once development is underway. A more serious objection concerns spontaneous early prosocial behaviour and selective social evaluation, which are evident in the first few months in life. This behaviour seems to suggest that basic elements of human morality are innate, or at least that infants are predisposed to developing certain forms of moral goodness, evaluation and retaliation (Hamlin 2013). For instance, Hamlin and Wynn (2011) measured the preferential attention of 3-month-old infants who could not yet reach, and argued that the infants' evaluations were driven by an aversion to hinderers. Yet, there are considerable cross-cultural differences. Hamlin (2013: 186) notes that "development and cultural variation do not themselves preclude the existence of innate capacities". It is probable that certain biological predispositions exist, and whether and how they eventually manifest themselves depend on learning and social interaction. Future research needs to consider this hypothesis and explain how and at what points in the developmental process innateness and learning influence each other.

Kärtner et al. (2010) attest that conformity is learned and develops gradually. They found that culture-specific differences in the modal patterns of contingent responsiveness emerge during the second and third months of life. They interpreted their findings as the result of the interplay between maturational processes that are selectively integrated and reinforced in culture-specific mother–infant interaction. Similar observations were made by Reddy (2010: 175), who asserts that by 2–4 months "infants develop expectations about other people's responsiveness and styles of responding and carry these expectations forward to new people they meet" in primary intersubjectivity and show "a very early openness to cultural involvement". Embarrassment-like displays start to emerge by 2 months, and by 18 months infants show embarrassment at being observed and over-complimented (Reddy 2003). Rochat et al. (2009) also hold that normativity emerges from intersubjectivity and in extended episodes of interaction. They argue that values jointly represented and negotiated with others emerge at around 20 months. Rochat (2013) maintains that the expression of secondary emotions such as embarrassment or guilt is characteristic of this new awareness of normativity and marks the beginning of the development of an ethical stance, connected to the emergence of self-consciousness and verbal skills.

I suggest that learning the basic distinctions among understanding a norm, believing it to be in force, and being motivated by it by believing it to be in force for oneself (i.e., by accepting it) enables disobedience and neglect of different kinds and of more or less significance. It also prepares for more nuanced corrective behaviour, as illustrated by the following two cases. First, failure to comply that results from not accepting a norm that one believes is in force is punished more severely than is neglecting to comply because one mistakenly believes the norm is not in force. Second, young children sometimes are defiant although they do not understand the content of the norm they refuse to follow. Such behaviour is not so much a case of disobedience, or of disrespect and impudence, as of boldness. Intuitively, excessive expression of self-assurance does

not merit the same kind of reproach as refusing to conform. It has not yet been shown that children can make these basic normative distinctions. Future experimental work would benefit from taking them into account.

To conclude, normativity is complex and we should expect it to develop throughout adolescence. The framework presented here can contribute to explain how the understanding of normativity unfolds over time. It does not merely prove valuable for clarifying the notion of compliance, but may be used to identify what abilities and behaviour are central to disclose the process of normative development.

Acknowledgments Special thanks to the members of NORMCON for constructive suggestions. I also wish to thank the members of DRUST, CCCOM and the Cog Com Lab as well as Neil Roughley, two anonymous referees, and the editor of this volume for valuable recommendations. This work was supported by The European Science Foundation via the Swedish Research Council (grant number 429-2010-7181).

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