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## The Justification of Norms Reflectively Analyzed

### INTRODUCTION

In his “Prolegomena zur reinen Logik” (*Logische Untersuchungen* [1900]), Edmund Husserl (1859-1938) offers a quite memorable analysis and example of what a norm is (for those unfamiliar with it, the English translation of the most relevant passage is in Appendix I of this essay): “A warrior ought to be courageous” is equivalent to “A courageous warrior is good.” Plainly, this transforms a norm into a value judgment. Husserl expresses this equivalence in a straightforward attitude, i.e., he does not analyze and describe how norms are constituted and justified. I have not noticed such a reflective analysis related to this account in the other publications of Husserl’s lifetime and if such an analysis occurs in work edited from his Nachlass, I am also unfamiliar with it. The present account is, in any case, not an interpretation of Husserl’s texts but a brief attempt at some constitutive phenomenology after the manner of the mature Husserl.

In the first section below I attempt to develop Husserl’s example in a vivid way, in the second section I take a purely possible referent of his propositions as a clue to the components of the encountering in which such a case is constituted, and in the third section I consider briefly how norms can be justified.

### CONDUCT IN A FIREFIGHT

It is unlikely that the hearer or reader of the present analysis has been in combat, but it is likely that she has seen news footage or fictional film

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depictions of situations like the following and can easily feign it as a possibility. In a firefight there are two groups of warriors within range of each other, firing rifles, and taking cover behind such things as rocks and trees. Members of each group are seeking to kill members of the other group and their motivation is at least that of “kill or be killed.” In order to aim and shoot the rifles effectively, a warrior must expose part of her head and thus risk being shot herself. To do so is courageous. To keep one’s head down and either not shoot or to shoot without aiming one’s rifle is cowardly. Seeming cowardice can be understood and excused for warriors in their first firefight or suffering from some type of mental or physical wounds. But what is courageous and cowardly for healthy and experienced warriors is clear.

To refer to such an example is to focus on things beneath the stratum of mental life in which propositions are formed and connected, but the pertinent types of the things referred to are cointended, types being unclarified universal essences or *eidē*, so such an example has an implicit general bearing. Through free-phantasy variation, the *eidē* vaguely given beforehand can be further clarified, but they already seem clear enough for present purposes. And on the basis of encountering such an instance of warrior courage (or cowardice) one can think and express the propositions “A warrior ought to be courageous” and “A courageous warrior is good” and posit their equivalence. (“A warrior ought not to be cowardly” and “A cowardly warrior is bad” can also be formulated, but hereafter the positive evaluation will be given priority in this exposition.)

To be able to assert that “A courageous warrior is good,” one needs first of all to be able to recognize a warrior and the sort of conduct deemed courageous. Taking cover, shooting, and being shot at is warrior conduct and

exposing oneself to enemy fire in order to shoot well-aimed shots is courageous warrior conduct. Courage can be affirmed of a warrior and then the subject matter called “courageous warrior” can have objectivated positive value or “goodness” predicated of it. This is not difficult to see and the equivalence of a proposition of that structure and the proposition, “A warrior ought to be courageous” as referring to the same matter and equivalent to, but not identical with, the first proposition also seems not difficult to see, which might be why Husserl did not pursue the matter further.

One can of course abstract from content and produce the combination of propositional forms, “An S ought to be, do, or have p” is equivalent to “An S that is, does, or has p is good.” The first proposition in this combination is the form of a norm, often in at least Anglophone philosophy also called an “ought,” which is to say a recommendation made to an other and/or oneself and not an imperative, command, or “shall,” such as “Thou shalt be courageous!” although these are sometimes confused in ordinary parlance, where what are actually commands are expressed “politely” as recommendations.

#### THE CONSTITUTION OF A NORM

What has been said thus far has been done so in the straightforward or unreflective attitude, i.e., things ideal as well as real and fictive if not serious have just been described without reference to how they are intended to, including in syntheses. What one finds if one reflects are, generally speaking, what Husserl calls *Erlebnisse* (and, in addition and perhaps more subtly, things-as-intended-to). Husserl’s expression, *Erlebnis*, has been

translated into English in several ways, e.g., as “experience” and “mental process” and even as “lived experience,” which seems an awkwardly mechanical rendering of “*expérience vécue*,” but I prefer to use “intentional process” and “encountering” alternatively, both of these expressions seeming to me more able to cover modes of believing, valuing, and willing as well as thinking and experiencing.

Following ultimately Samuel Alexander, I emphasize the difference between “-ing” words and “-ed” words. Upon reflection not only can a phenomenologist observe seriously or fictively and then analyze and describe *encounterings* but also things including warriors in firefights as-*encountered*. In other words, one can practice what Husserl calls noetico-noematic analysis. Where the noematic is concerned, such things as manners of givenness, values, and uses can be discerned, but I will focus on the noetic here, although nowise exclusively.

To analyze the constituting of a thing, one takes the purely possible thing encountered (or intended) as a clue to how it is constituted and then reflects on serious or fictive *encounterings* of it. To take the propositions offered by Husserl as clues would lead to reflective analysis of the correlative thinking and judging. Better is to take as a clue a case that the propositions could refer to, e.g., a warrior in a firefight. Then there is at least a reflectively feigned case of encountering a warrior who is courageous (or cowardly). This encountering can be directly experienced by her fellow warriors in the firefight who see her conduct there or it can be indirectly encountered by members of an awards committee (or a court martial) who depend on testimony by the fellow squad members and other data, which nowadays can include satellite videos.

I find a somewhat simplified taxonomy of intensitive process components sufficient for an analysis like this. In this taxonomy there are two genera of components.<sup>1</sup> On the level of experiencing, there is the indirect experiencing by the awards (or court martial) committee and that is what makes their encountering indirect. The encountering by the fellow squad members in the firefight is relatively direct and indeed outwardly perceptual although only appresentively so. (I hesitate to call this experiencing “empathy” because I have noticed too many Anglophone Husserlians affected by this word such that they seem to consider this “other-experiencing,” as I prefer to call it, a predominantly valuational rather than experiential process.) The warrior also encounters herself through self-experiencing and indeed presentively so.

The second kind of component discernible in an *Erlebnis* isthetic or positional and, the problem of wishings aside, there are three species, which are best called believing, valuing, and willing. (How such positings as well as experiencings can be primarily and secondarily passive as well as *Akte*, is also disregarded for present purposes.) There seems no difficulties where believing is concerned. If the fellow squad member is seen to be using her rifle in one way, she is courageous (and in another way, she is cowardly). The seeing here justifies *prima facie* the believing in it and is *Evidenz*, which I prefer to render as “evidencing” since too often “evidence” signifies things other than intensitive processes in ordinary and legal English. Husserl says somewhere that “*Evidenz ist Erlebnis*” which signifies that, e.g., it is not the knife with the accused person’s fingerprints and the victim’s blood on it that is *Evidenz* for Husserl, but the seeing of them by the laboratory technician who is testifying.

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<sup>1</sup> See Appendix II.

There is also a component of willing in the case under analysis. The warrior can will herself to act courageously and her squad leader can command her to do so. But for the constitution of norms, what is crucial is the valuing involved. Prepredicatively, the warrior can approve of her own courageous conduct (or disapprove her own cowardice) and her fellow squad leaders and also the committee that might award her a medal (or court marshal her) can also value (or disvalue) her conduct. Valuing is central to whether she can have goodness (or badness) predicated of her courageous (or cowardly) conduct. In other words, the value of the conduct is constituted in valuing and this predominates in the encountering of her conduct.

#### THE QUESTION OF JUSTIFICATION

If what has now been said suffices to show how courage (and cowardice) is prepredicatively encountered, the level of Husserl's propositions can next be attained through the categorial forming of the subject and the objectivating and predicating of goodness and badness. But this only accounts for how it is that one can say that some warrior conduct is good (or bad) and indeed may be recommended to be (or not to be) engaged in. This analysis has not yet addressed the question of justification, i.e., of whether courage is right or rational and cowardice not.

As I understand Husserl, a positing is justified when it is founded upon and motivated by evidencing. Whether it is a matter of direct self-experiencing or of direct or indirect other-experiencing, there is experiencing that can play the role of evidencing in the case analyzed. People are always motivated by past encounterings to behave and to evaluate themselves and others in various ways. This is where critical examination

needs to consider not only the motivation but also the foundedness of the valuing component on the evidencing and correlatively the reflectively discernable value and givenness of the thing valued. If one is a dedicated pacifist, one does not try to kill others even if they are trying to kill you. The valuing of oneself staying alive for others may be a strong motive and only loosely related on the part of the warrior to the evidencing of the need to shoot most effectively at the enemy.

At least as important in this connection is how the fellow squad members and the awards committee (or court martial) has its valuing not only motivated by the evidencing of the warrior's conduct but also tightly founded on that evidencing. More colloquially speaking, these others can base their valuing on "really seeing" seriously or fictively what the conduct was in the situation. (There is a second norm here concerning how those who judge are obliged to proceed, it seems analyzable in similar fashion, and will not be pursued here.) And on the basis of such justified valuing the judges can go on to form and express propositions of two sorts and also the equivalence between them, as Husserl did in the "Prolegomena." In other words, it is right that warriors ought to be courageous rather than cowardly. And with an ought then justified a constitutive phenomenologist can go on to investigate a "shall," i.e., an imperative or command, but this is beyond the scope of this brief reflection, which has only sought to show how oughts are constituted and justified.

In sum, the present analysis has accepted from Husserl that an ought or norm implies a value judgment and goes on to take a purely possible referent of such a judgment as a clue to the components of encountering in which that referent is constituted prepredicatively, especially including

evidencing and valuing, and finally examines how evidencing can justify the valuing in which the attributed value is constituted.



## APPENDIX I

“‘A soldier should be brave’ rather means that only a brave soldier is a ‘good’ soldier, which implies (since the predicates ‘good’ and ‘bad’ divide up the extension of the concept ‘soldier’) that a soldier who is not brave is a ‘bad’ soldier. *Since* this value-judgement holds, everyone is entitled to demand of a soldier that he should be brave, the same ground ensures that it is desirable, praiseworthy etc., that he should be brave. The same holds in other instances. ‘A man should practice neighborly love,’ i.e., one who omits this is no longer a ‘good’ man, and therefore *eo ipso* is (in this respect) a ‘bad’ man. ‘A drama should not break up into episodes’—otherwise it is not a ‘good’ drama, not a ‘true’ work of art. In all these cases we make our positive evaluation, the attribution of a positive value-predicate, depend on a condition to be fulfilled, whose non-fulfillment entails the corresponding negative predicate. We may in general, take as identical or at least as equivalent the forms ‘An *A* should be *B*’ and ‘An *A* that is not *B* is a bad *A*,’ or ‘Only an *A* which is a *B* is a good *A*.’” (Edmund Husserl, *Logical Investigations*, trans. J. N. Findlay (London: Routledge & Kegan Paul, 1970), Vol. I, p. 82.

## APPENDIX II

## Taxonomy of 17 (?) Intentional Process Components

