

# 1. First formulation of major aims and main threads

In order to determine whether two participants in a discussion are in real *dis/agreement* one must *compare* their propositions. Comparison presupposes common yardsticks and common features: Just as the comparison of two phenomena with respect to length presupposes that one has concepts of units of length and that these concepts are applicable to both phenomena, so the comparison of propositions with respect to dis/agreement will presuppose that one has concepts of types of proposition and that these concepts are applicable to both sets of propositions. – If one has no concepts of proposition types, or if one applies them to propositions in relation to which they are out of place, then the comparison will be only an apparent one (pseudo-discussion) and the result a misunderstanding (pseudo dis/agreement).

A major aim of the present work is to describe and to clarify certain *yardsticks for the comparison of and choice between propositions*, and to demonstrate the area of origin and application of, as well as a certain independence characterising, these yardsticks. It is at the same time an aim *not* to take a standpoint on the *tenability of the propositions themselves*: in particular not to take a standpoint on controversial philosophical, moral, legal, political or similar questions (section 6 below).

The *description and clarification* of the yardsticks (certain proposition types and patterns, criteria and interests) have determined the systematic structuring of this work: from the simple to the complex (section 5.1 below, with further references).

In the parallel demonstration of the *area of origin and application* of the yardsticks, I often return to propositions about legal phenomena, including lawyers' propositions about what the law is. – Seen from the point of view of the yardsticks, it is true that lawyers' language and argumentation is *only one instantiation*: The area of origin and application of the yardsticks is everyday language, in everyday life as well as in academic subjects, science and philosophy, i.e. much wider than lawyers' language and argumentation (section 5.1 below). – However, seen from the point of view of lawyers, the yardsticks are *constitutive of their legal power of judgement*: The work will demonstrate the fact that, and the way in which, unity and continuity in lawyers' language and argumentation are created in and through the yardsticks (sections 5.1–5.2 below, with further references).

The *independence* of the yardsticks cannot in the same way as their area of origin and application be demonstrated continuously. Towards the end of the

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present introduction I shall give an account of what I mean by “independence” in the preceding sentence and in what way this property of the yardsticks appears from the work (section 6 below).

In and through the yardsticks (the proposition types and patterns, criteria and interests of which the work gives an account) significant acts take place, but these have not been systematically and concretely mapped in earlier literature. In this resides the *value of the work* (section 7 below).

As a concrete point of entry into the perspective and topic of the work I shall continue the present introduction by taking as a starting point one of the most common forms of proposition in everyday language: the form ‘*what something is*’ (section 2 below). After this I shall point to four *main yardsticks* for comparison of and choice between propositions of this form (section 3 below); and then I shall situate these main yardsticks, with specifications and combinations, in the *perspective of the work* (sections 4–6 below).

## 2. Propositions about what something is

In what follows some examples are presented of questions or propositions about what something is; these examples are intended to illustrate the fact that such questions and propositions are *omnipresent*, but have otherwise been randomly chosen:

“[A] *legal duty* so called is nothing but a prediction that if a man does or omits certain things he will be made to suffer in this or that way by judgment of the court; and so of a *legal right*” (my italics).<sup>1</sup>

“A *precedent* is a judgment of the Supreme Court ...” (my italics).<sup>2</sup>

“The *case documents of the public administration* are documents which are drawn up by an administrative agency as well as documents which have been received by or submitted to such an agency” (my italics).<sup>3</sup>

“[P]*olitics* is a process of popular education – the task of adjusting the conflicting interests of diverse groups in the community, and bending the hostility and suspicion and ignorance engendered by group interests toward a comprehension of mutual understanding” (my italics);<sup>4</sup> “Politics is the will to achieve something.”<sup>5</sup>

“So sehen wir also, daß *der Krieg* nicht bloß ein politischer Akt, sondern ein wahres politisches instrument ist, eine Fortsetzung des politischen Verkehrs, ein Durchführen desselben mit anderen Mitteln” (my italics);<sup>6</sup> “*War* is not part of politics, but the negation of politics, a parasitic growth upon political life” (my italics).<sup>7</sup>

“What is ... a *national state*? Put simply, it is a state in which the population forms a cultural community” (my italics);<sup>8</sup> “A national state is a state that gives expression to a national community.”<sup>9</sup>

“*Courage* is a moral quality; it is not a chance gift of nature like an aptitude for games. It is a cold choice between two alternatives, the fixed resolve not

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1 Holmes, ‘The Path of the Law’, p. 169.

2 Peter Wessel Zapffe. Here quoted from Andenæs, *Innføring i rettsstudiet* [introduction to the study of law], p. 113.

3 Freedom of Information Act (Act No. 69 of 19 June 1970), section 3 first paragraph.

4 Frankfurter, *The Public and Its Government*, p. 161.

5 Palme, *Politikk – det er å ville noe* [politics – that is the will to achieve something].

6 Clausewitz, *Vom Kriege*, p. 34.

7 Collingwood, ‘Modern Politics’, p. 179.

8 Østerud, ‘Er nasjonalstaten foreldet?’ [is the national state a thing of the past?], p. 352.

9 Østerud, *Hva er nasjonalisme?* [what is nationalism?], pp. 102 et seq.

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to quit; an act of renunciation which must be made not once but many times by the power of the will. Courage is will power” (my italics).<sup>10</sup>

“What is *philosophy*?” (my italics).<sup>11</sup>

“What is the *world*? Is it spiritual or material? Or both? What is the relationship in which mind stands to matter? What is *man*? Where does he come from, where does he go? What is the *purpose of life*? What is the *greatest good*? These and similar questions are ones that human beings ask themselves over and over again. In spite of thousands of years of searching in vain for the final answer, each new generation always asks them again” (my italics; Schjelderup’s italics omitted).<sup>12</sup>

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<sup>10</sup> Lord Moran, *The Anatomy of Courage*, p. 67

<sup>11</sup> Various articles with this title in Stigen (ed.), *Generasjoner i norsk filosofi* [generations of Norwegian philosophy]; Deleuze/ Guattari, *Qu’est-ce que la philosophie?*

<sup>12</sup> Schjelderup, ‘Filosofiens vesen’ [the essence of philosophy], p. 48.

### 3. Fundamental proposition-types and ambiguities

Propositions about what something is (section 2 above) may be seen as (actual or possible) answers to questions of the form “*What is x?*”. Just as great as the diversity of directions in which this form of question points, is the diversity of proposition types about what something is, with which we operate.<sup>1</sup>

(1) One fundamental ambiguity of propositions about what something is, arises between, on the one hand, propositions that contribute to determining the meanings of words (contribute to determining concepts), and on the other hand, propositions that presuppose this topic and thematise other topics. – In relation to the standard forms of expression “What is *x*?” and “*X is ...*”, the ambiguity is a question of whether “*x*” refers to the word (the concept) or to the phenomena that the word designates (the concept covers). For example, do the propositions quoted in section 2 above say something about the meanings of the words and expressions “legal duty”, “legal right”, “precedent”, “case documents of the public administration”, “politics”, “Krieg”, “war”, “national state”, “courage”, “philosophy”, “world”, “man”, “purpose of life”, “greatest good”? Or do these propositions say that the phenomena that are designated by these words and expressions have certain properties? In the terminology that is introduced in what follows: Are they *definitions* or *characterisations*?

The distinction between definitions and characterisations is important because *different facts are relevant in the assessment of their tenability*: – If the sentence “a precedent is a judgment of the Supreme Court”<sup>2</sup> is interpreted as expressing a descriptive definition, then the tenability of the proposition must be checked by comparing the proposition with actual language use (the way in which the word “precedent” is actually used). – If this sentence is interpreted as expressing a descriptive characterisation, then the tenability of the proposition must be checked by comparing the proposition with reality other than language use (with the properties of those phenomena that are designated by the word “precedent”).

In my subsequent discussion of definitions one main thread consists in mapping different aspects of language use to which definitions relate (sec-

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<sup>1</sup> Robinson, *Plato's Earlier Dialectic*, p. 59: “[Questions of the What-is-*x*? form] is, perhaps, when unsupported by a context, *the vaguest of all forms of question except an inarticulate grunt*. It indicates less determinately than any other the sort of information the questioner wants” (my italics). – See also same writer, *Definition*, pp. 190, 192.

<sup>2</sup> In accordance with normal language usage among lawyers I use the spelling “judgment” for a type of decision of the court. In all other cases I use the spelling “judgement”.