A constructivist conception of legal norms

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Abstract

In this paper I analyze Bulygin's conception of those legal statements asserting that a certain action is legally obligatory, prohibited or permitted. According to Bulygin these statements are ambiguous. On the one hand, they can affirm the existence or validity of a legal norm in a descriptive sense. In this case they are external statements expressing empirical propositions. On the other hand, they can assert the existence or validity of a norm in an absolute or moral sense, in which case, they are internal (neither true nor false) statements that express a norm or a moral attitude towards it. In the paper I attempt to defend that for a positivist theory, if law is conceived as a set of norms, statements asserting that a certain action is legally permitted or prohibited do not report an empirical fact but do not report the moral or absolute validity of a norm either. They surely assert a normative fact: the legal existence or validity of a normative entity. Nevertheless, this sense of existence or validity depend on human behavior and is relative to a given time and place. I take into account four considerations presented by Bulygin in support of his rejection of this kind of statements expressing internal, normative proposition. In my view, Bulygin's rejection is fundamentally due to his strict conception of what it means to assume an internal point of view but, even more, it is due to the admission of a false dichotomy between two ways in which an entity can exist: one empirical (relative), the other normative (absolute). In order to criticize this apparent dichotomy, I briefly sketch a constructivist conception in which we can say that legal norms exist. If my reasoning is correct, this conception is one that a positivist legal theory can offer in order to explain internal statements expressing normative facts or propositions.

Key words: Bulygin, existence of legal norms, legal validity, legal statements, norm propositions.

Introduction

The following lines have been written in homage to Eugenio Bulygin. Undoubtedly, those who like me, truly appreciate him and his work owe him an special tribute; though in my opinion it is also the entire scientific community who ought to pay homage to him. The ideas that Eugenio Bulygin has provided to legal philosophy have not only been praised by his contemporaries for their originality and fecundity, they have also marked a milestone, a needed point of reference in the discipline. In the study of legal philosophy, legacies like that of Eugenio Bulygin are quite exceptional and certainly deserve to be celebrated as well as cultivated and developed even further.

For many years I have enjoyed the privilege of his intelligence and generosity. In this way I wish to express the admiration, affection, and gratitude that I have for him.

In what follows, I will analyse some of Bulygin's ideas on the status of statements that identify legal duties and legal permissions, i.e. those that identify legal norms. According to Eugenio Bulygin, a positivist theory of law cannot admit normative propositions that identify the content of legal norms. Those statements that apparently play this role, such as "In Argentina, marriage between people of the same sex is allowed" have two possible interpretations. Either they express propositions but they do not have normative content, or they have normative content but they do not express propositions. In the first case, the statement proposed as an example expresses an empirical proposition, such as: In Argentina, the congress passed a bill, which the executive signed into law, permitting marriage between people of the same sex. In the second case, the statement expresses a norm, or a judgment of normative adherence. That is, it is a statement that does not convey information, but rather the practical attitude of the issuer. To be specific, the agent who pronounces it, either authorizes marriage between two people of the same sex (i.e. she issues a norm), or manifest conformity with this fact (i.e. she utters a judgment of normative adherence).

In somewhat different terms, Bulygin asserts that the statements that express the content of a duty are ambiguous. They can be prescriptive but can also be descriptive statements that inform of the existence of a norm[1]. That being said, it should be clarified that Bulygin – when analysing Kelsen's theory – distinguishes between four possible meaning of the existence of norms, which are neither exhaustive nor exclusive of each other[2]. In three of these meanings, existence is empirical, relative to a certain time and place and can be described using true or false statements. On the contrary, according to the fourth meaning, that a norm exists means that it is compulsory or binding. In this case, the existence is a normative property. But, above all, it is at the same time an absolute property, not relative to a specific time and place, and the statements that express it are not descriptive, but rather prescriptive. That is, they are also norms. As we well know, beyond Kelsen's theory according to which validity is the specific existence of norms, in legal theory in general the terms "validity" and "existence" tend to be used interchangeably and – as C.S. Nino and Bulygin point out –, they suffer from the same type of ambiguity. Consequently, Bulygin also distinguishes

[1] Cf. Bulygin 1999.

[2] Cf. Bulygin 1990: 37-38.

between a descriptive and a normative sense of the term "validity". And, in his opinion, a positivist theory is barred from using a normative concept, whether it be one of existence or validity of legal norms. A theory of this type cannot maintain that a legal norm is valid in this sense because, in doing so, it would automatically be formulating prescriptions or expressing moral acceptance[3].

By way of confirmation, Bulygin – in his analysis of Hart's theory– underlines the fact that in order to exhaustively describe law, only three types of external legal statements are needed: (1) those that record behavioural regularities of those who comply with the rules, (2) those that additionally record hostile reactions to deviations and (3) those that additionally record the fact that the members of a society accept certain rules, that is, that some patterns of behaviour are considered to be required and justified[4]. In any case, these three types of statements are limited to referring to social facts of an empirical nature.

Therefore, a legal statement like "In Argentina, marriage between people of the same sex is allowed" is ambiguous. Either it expresses a norm or an internal statement that asserts the moral bindingness of a norm (i.e. it affirms the existence or validity, in the normative and absolute sense of those terms), or it expresses a proposition that confirms certain empirical facts, such as the fact that the norm is in force or accepted (i.e. it maintains its existence and validity in at least one of the empirical and relative senses that these expressions have). There is no other option.

In what follows I will present some critical arguments regarding Eugenio Bulygin's thesis and I will attempt to show that there is another option. If my reasoning is correct, it can be claimed that Bulygin's thesis is not coherent with the positivist and normativist theory that he assumes with regard to law in general. Furthermore, as opposed to what Bulygin appears to presume, normativist positivism uses a concept of existence (or validity) that does not correspond to any of the meanings that he has highlighted. Accordingly, I will attempt to maintain that for this kind of positivism, firstly, the existence or validity of a norm is not an empirical property, although it is a property relative to a specific time and place. At the same time, even though it is not an absolute property, it is a normative property. Secondly, in this perspective it is perfectly possible to formulate (true or false) propositions about legally valid or existing norms. These are not empirical propositions, but they cannot be equated with propositions regarding absolute properties or entities.

A positivist and normativist conception of the law

I am taking as a starting point one fact that will not be under discussion here: within a positivist conception of law, Bulygin defends a normativist position. This position maintains that law is a set of norms. And, more precisely, it proposes a complex thesis that challenges two types of

[3] Following a Norberto Bobbio, Bulygin maintains that positivism which uses a normative concept of validity falls under the category of ideological positivism. This is so because, when affirming a norm is valid, it is, in this sense affirming that is morally required. Cf. Bulygin 1986: 127-152. I cite the Spanish version: Bulygin 1991a: 184.

[4] Cf. Bulygin 1991: 178.

reductionisms. On the one hand, this position rejects that legal norms are empirical entities. On the other, it rejects that legal norms exist in the same sense in which it is usually admitted that moral norms exist or are valid, i.e. in absolute terms, independent from any behaviour, belief or human attitude. In other words, this kind of positivism, unlike Sceptical Realism, maintains that legal norms exist, and that they are effectively norms, that is, abstract entities, meaningful deontic contents, not reducible to empirical facts. Thus, unlike Natural Law theories, it maintains that these abstract deontic entities become existent or valid only by virtue of certain behaviours, beliefs and/or human attitudes[5].

Normativist Positivism conceives of legal norms as entities whose existence forms part of social reality[6]. In other words, it assumes a kind of constructivist conception of legal norms. In my understanding, this conception is an especially good fit for Bulygin's theory of law. Even though it is not a topic that he explicitly discusses, there are several elements in Bulygin's approach that make it coherent with a constructivist approach. Just to mention one: when Bulygin talks about Herbert Hart's proposal, he explicitly accepts that the foundation of any concrete legal system can be found in the acceptance of a conceptual rule which has a constitutive nature[7].

In accordance with this conception, a legal norm exists or is valid only if the circumstances established in an accepted constitutive rule or pattern are verified within a certain time and place. For this reason, each time that these circumstances occur, we are justified in affirming that a legal norm exists or, which is the same in this context, that certain content is legally valid. As we can see, this is a relativist conception of the existence or validity of legal norms. And, as I have just said, in my opinion, there is no difficulty in attributing this position to Eugenio Bulygin.

Nevertheless, many authors allege that this constructivist and relativist conception of legal norms cannot be sustained. Specifically, a position that is clearly opposed to this proposal is that according to which there are only two ways in which an entity, whatever that might be, can exist: either it is part of empirical "reality" in a certain time and place, or it is part of an abstract and ideal "reality" that does not depend on empirical events, nor is it relative to a specific time and place. According to this classic distinction, these two models of existence are exclusive. Therefore, the positivist position, according to which legal norms are abstract but relative to a certain time and place (i.e. dependent on empirical events), is not available. Either these norms are ideal entities, and in this case, they exist, like the norms of critical or true morality and are independent from time and place, or they exist in relation to a specific time and place, and this case are empirical entities[8].

Given that in this work I am assuming normativist positivism as a starting point, I will not stop to argue in its favour. What I would like to do is highlight that normativist positivism is committed to

[5] There are two versions of normativist positivism, the inclusive version and the exclusive one. It is not necessary to distinguish between them in this context, since I use an intentionally indeterminate formula which allows both types to be covered.

[6] It is in this sense that Hart's proposal can be read. Cf. Hart 1961. Furthermore, a general explanation of the way in which this social reality exists can be found in Searle 1995 and 2010.

[7] Cf. Bulygin 1976. Also Bulygin 1991b: 257-279.

[8] A position like this can be seen in Caracciolo 2009: 186.

denying that only the two modes of existence mentioned above can be admitted. Legal norms are abstract entities that exist only as long as a group adopts the internal point of view as regards a constitutive pattern. In other words, for a legal norm to exist it is not enough – as other positivist theories have maintained – that certain empirical events are produced, such as someone with certain characteristics prescribing a behaviour and a group of people obeying that individual. That facts such as these give rise to the existence of a legal norm is something possible if, and only if, an accepted constitutive rule says so. Thus, for Normativist Positivism, there are two types of facts that we should not confused. On the one hand, the fact of accepting the foundational constitutive framework and the verification of conditions set out by it as norm generators. On the other hand, the existence of a rule or constitutive pattern and that of specific legal norms which can be identified using this rule or constitutive pattern. As we have seen, these legal norms do not "exist", and we could never identify them –unless certain agents adopt the internal point of view and accept the specific constitutive framework. Specifically, the facts that a constitutive rule is accepted and its conditions of application occur explain, from an external point of view, the fact that, from an internal point of view, certain data are taken to be validity criteria and certain deontic contents are considered valid legal norms. In this way, statements like: "In Argentina a norm is legal valid only if it is passed by a body representing the citizenry", or "In Argentina a legal norm exists that allows marriage between two people of the same sex", even though they assume that certain empirical facts are verified, they are not synonymous with nor equivalent to empirical statements about facts.

As we have seen, Bulygin refuses this interpretation. He denies that we can know and make true or false propositions about the legal validity or the legal existence of normative contents, without reducing them to empirical events, or without turning ourselves into believers in their absolute validity.

Considerations that support Bulygin's position

In what follows I will refer to some of the reasons adduced by Bulygin in favour of his position.

I- The unnecessary character of statements on the normative content of law.

In part, Bulygin's thesis is founded on the idea that legal theory does not need propositions about the content of its norms to account for the law. According to Bulygin, external statements of the third type – that is, those that in addition to conformity behaviour and hostile reactions, register acceptance of norms on behalf of a social group – are adequate for fulfilling the task that a legal scholar should perform[9].

Nevertheless, the exact opposite can be claimed. None of the external statements listed by Bulygin captures the type of statements that legal scholars make, given that they discuss permitted,

[9] Cf. Bulygin 1991a: 182.

obligatory and prohibited contents in a certain legal system. That is, they refer to norms and not to empirical facts.

When a normativist thesis is maintained, propositions about the valid normative contents of any legal system come to be indispensable. If it is admitted that law is a set of norms, the only possible knowledge of law is knowledge of norms, not empirical facts. Indeed, an open alternative to normativist positivism is to affirm that even if legal norms exist, they are not unknowable. But this thesis is highly extravagant and certainly not what Bulygin attempts to maintain.

In short, the attempt to analyse statements like "In Argentina, marriage between people of the same sex is allowed", which express knowledge of Argentine law, in terms of statements about empirical facts is contradictory to the position of normativist positivism regarding what law is. None of the external statements listed by Bulygin is suitable for expressing propositions about law because none of them refer to norms. The acceptance of descriptive propositions about norms is indispensable for all those who do not wish to maintain an implausible thesis according to which, even though law exists, it is not a subject that can be known.

II- The hybrid character of statements on the normative content of law

A second consideration by virtue of which Bulygin denies the possibility of referring to duties that are not reducible to empirical facts can be summarized in the following way: a legal statement that purports to inform about the content of a duty would constitute an inadmissible hybrid. In effect, upon reflecting on the status of the internal statements of Hart's theory (statements pronounced for those who adopt the internal point of view), Bulygin maintains that they are disguised ways of formulating rules or aspirations based on rules. Understood in this way, these statements seem to be descriptive and normative at the same time[10]. They would constitute a mixed-type speech act (a sort of assertion-prescription) or they would express a mixed-type semantic entity (a sort of proposition-norm).

Nonetheless, unfortunately, Bulygin does not offer any argument in support of his opinion, according to which when an internal statement is uttered on the legal validity or existence of deontic content, we would be carrying out a "sui generis" type act, with a simultaneous two-way direction of fit. He only reaffirms that this is what we would be doing: we would be uttering either a true or false statement, i.e. a proposition, but we would also be placing ourselves in the internal point of view and expressing moral acceptance about it at the same time, i.e. issuing a prescription.

If this were the case, Bulygin would be right and we would have to admit that internal statements or normative propositions understood in this way, are semantic entities with a double direction of fit, or as Bulygin maintains, that they are not authentic propositions, but rather disguised prescriptions[11]. However, I understand that this is not necessarily the case and that Bulygin's

[10] Cf. Bulygin 1991a: 183 and 186.
[11] Cf. Bulygin 1991a: 182 and 185.

predicted result is produced only if a restricted and inappropriate idea is adopted regarding the notions of "acceptance", "internal point of view" and "internal statement".

III- Statements on the normative content of law imply adopting the internal point of view, understood as the moral acceptance of these statements

In Bulygin's perspective, the problematic nature of legal statements that identify norms stems from the fact that they presuppose the adoption of the internal point of view, which he assumes, is a moral commitment: the belief in the validity of norms in the absolute sense. However, is this truly what those who pronounce or affirm normative statements are committing themselves to?

As we well know, the notion of acceptance and the internal point of view can be understood in different ways. Let us suppose that just for the sake of curiosity, or to show examples of norms existing in different legal cultures, we wish to identify what it is obligatory or permitted according to a legal system. The basic rule of such a system establishes that a normative content, in order to belong to that system, must be laid out in a written document that is signed and published by certain authorities. When we identify what is obligatory or allowed according to this law, we are in some sense assuming or placing ourselves in the internal point of view with regard to this constitutive pattern. In reality, we would not be able to "see" or identify existing or valid norms in such a system without using, and in this sense accepting, the content of that pattern. By doing so, we certainly assume certain commitments. However, no reason can be seen to presuppose a belief in its absolute validity or its moral correctness. This type of situation shows that, in an important sense, we can place ourselves in the internal point of view without believing that the identified norms or the basic pattern are morally virtuous[12]. If our goal is only to know what the norms belonging to the legal system are, we do need to know and use the pattern that establishes the conditions for a norm to belong to said system, but we do not need to agree with it in any way, even less in the virtue of its moral properties.

A second situation is that in which those who seek to identify normative contents belonging to the system not merely act with epistemic interest, but also admit to being subject to the practical consequences that follow from it. In this case there are two possibilities. It is certainly possible to accept this basic framework because it is considered to be objectively correct, independent from any belief or human attitude (i.e. valid in an absolute sense). But this is a strong attitude, one of an individual who is a true believer in the law, that it is not at all necessary or usual. In general the framework of a legal system is accepted for a great variety of reasons: for example, to be able to invoke the rights that the system confers, so as not to lose a source of economic gain, not to be punished, etc. Or even for no reason at all: because it is routine. In this hypothesis, the assumption of the internal point of view means not only accepting that certain legal norms exist or some deontic contents are legally valid, as with the previous case, it also means seeing ourselves as agents susceptible to being reached by said norms, that is, included in the personal sphere of

[12] McCormick distinguishes between a cognitive element and a volitional one in the internal point of view. In this sense, the individual who exclusively seeks to know the law will assume only the cognitive element of the point of view. McCormick calls this the non-extreme external point of view. Cf. McCormick 1981: chap. 3.

application of these norms. Even in a formal and hollow sense of "morality", in which morality is understood as any set of principles accepted as the ultimate basis for justifying our decisions and actions, it could be said that this position assumes a "moral" commitment. However, it should be emphasized that, according to this interpretation, morality is completely devoid of content and that, in this sense, any action has a moral justification as far as it is based on certain norms that are accepted as ultimate principles of justification[13].

In any case, what is interesting to notice is that in this type of hypothesis, the acceptance of the constitutive framework neither presupposes nor implies a belief in the substantial merits or in its universal or absolute validity.

In short, it is true that, as Bulygin points out, the identification of the content of the law is realized through internal statements. In accordance with our example, for instance for a certain act like that of marriage, to be permitted, certain actions have to take place: the writing, signing and publication of a document that authorizes it. These last acts could be identified from an external point of view, without accepting the constitutive foundational framework. Nevertheless, it is not possible to claim that they are the foundation of, or the reason that justifies – or directly constitute – permission to marry, without at the same time accepting and using the constitutive foundational framework that establishes it in this way. That certain circumstances or behaviours established by an accepted pattern have the property of being a foundation, criterion or reason for affirming that specific permissions or duties exist or have legal validity *is not a natural or empirical property* of these circumstances or behaviours. It is a property that they have by virtue of being established by the content of that pattern that we accept and use. In other words, we can only see them as circumstances or acts "creating" a legal norm once we have adopted the internal point of view and accepted said pattern. However, it is a completely contingent fact that this acceptance is based on a moral principle, except in a merely formal and void sense in which a moral principle is any principle accepted as a final one.

Of course, it should not be ignored that the expressions "acceptance" and/or "adoption of the internal point of view" in legal theory are also used as synonyms of substantial moral approval or belief in validity in an absolute sense. In fact, this is the sense in which Bulygin is using them, given that for him if legal statements on the existence of norms are not reducible to an affirmation of empirical facts, they are statements about their existence or moral validity in an absolute sense. Nevertheless, if what has been said in this section is correct, to claim that normative contents have the – not natural/ empirical – property of being legal norms, it is not necessary to assume or find oneself in this position.

IV- Statements on the normative content of law imply the existence of normative facts

It can be conjectured that one of the main reasons for which Bulygin rejects the possibility of propositions with normative content is that they imply the collapse of the fact-value dichotomy and the admission of the existence of normative events. Bulygin says so explicitly: «It cannot be

[13] Cf. Caracciolo 1994: 97-110. A Spanish translation also exists in Caracciolo 2009: 147-162.

maintained that internal statements are prescriptive or normative and at the same time true or false unless one is willing to accept the existence of certain peculiar facts, which make them true, namely *moral or normative* facts»[14]. Furthermore, when analysing the propositions of law in Dworkin's theory, Bulygin poses the question «With regard to what are these propositions true?» And he points out that some serious difficulties arise when Dworkin responds to this question[15].

It is clear that Bulygin does not believe that a positivist conception can offer a good explanatory theory of these facts and, in his opinion, Hart also rejects them[16]. However, in spite of what Bulygin thinks, it is appropriate that a theory like Hart's can be appealed to in order to explain them. In this author's conception, to say that a norm is legally valid, in effect, implies affirming from an internal point of view a normative fact: the fact that something is forbidden, permitted, or obligatory from a legal point of view. Denying this type of facts would constitute a flagrant contradiction within a theory which actually defines itself as "normativist" because it accepts that normative entities (prohibitions, permissions, duties) which are different from and not reducible to empirical entities can exist or be legally valid, even when they are not valid or binding from an absolute moral point of view. In accordance with what I have argued here, legal positivism is perfectly suited to explain what the existence of these normative facts consists of. In other words, a positivist theory is perfectly suitable for admitting internal legal claims that identify legal duties, prohibitions, or permissions, and whose truth or falsehood is determined by a specific type of normative facts (i.e. the existence of legal norms).

Final considerations

How it is possible that a theory like Eugenio Bulygin's, which admits that law is made up of abstract normative entities, rejects that these same entities can be known and this knowledge is expressed in propositions that are not reducible to empirical propositions. In my opinion, the answer to this question ought to be found not only in the fact that Bulygin assumes a restrictive (moral) conception of what it means to adopt an internal point of view and affirm validity in a normative sense (remember that in Bulygin's conception both imply the assumption of a moral commitment). It can be said that this conception is fundamentally the result of two factors.

In the first place, Bulygin's theory continues to be the victim of the apparent dichotomy according to which only two kinds of entities can exist. There are empirical entities, whose existence is relative to a certain time and place (the three descriptive senses of existence proposed by Bulygin) or there are abstract entities, whose existence is absolute, i.e. independent from any time and place (the fourth normative sense of existence proposed by Bulygin). In other words, even if Bulygin apparently distinguishes between four senses of existence of norms, in reality, what he is doing is

[14] Cf. Bulygin 1991a:. 180. Emphasis (italics) added. This paragraph also testifies to the synonymy that Bulygin establishes between normative and moral aspects.

[15] Cf. Bulygin, 1991a:187.
[16] Cf. Bulygin, 1991a: 180.

distinguishing between four concepts or ways of understanding norms that, if they exist, they do so only in one of the two senses mentioned above, which he considers exclusive and exhaustive[17]. However, as we have seen, as long as it is possible to offer a good theory to account for the way in which some abstract entities can exist without being independent from empirical reality, it is possible to claim that, just as Bulygin understands it, the contrast between abstract entities (absolute) and empirical (relative) represents a false dichotomy.

In the second place, Bulygin curiously seems to have overlooked the fact that defines a legal theory as normativist, or not reductionist with regard to norms. A legal theory is normativist, not reductionist, only if it allows distinguishing between, on the one hand, the existence of empirical facts that give rise to the existence or validity of legal norms, and, on the other hand, the existence or validity of legal norms.

By identifying the content of a specific constitutive rule, we identify that which constitutes a relevant criterion, reason or property in order to justify, from an epistemic point of view, that a content is legally valid. In other words, the acceptance of a specific constitutive pattern and the verification of the conditions provided by it explain, from an external point of, view why something is, from an internal point of view, a relevant consideration to epistemologically justify the normative propositions that we formulate. For this reason, the debate about which facts or considerations are 'relevant' for affirming the existence of a legal norm necessarily is an internal debate about the content of an accepted foundational rule.

In short, for the normativist positivism, law is a set of norms. For this reason, the propositions that identify norms are the only ones apt to express the knowledge of law. If the constructivist conception that has been summarily sketched out here is appropriate for explaining the sense in which legal norms exist or are valid, this implies that one more sense should be added to the four indicated by Bulygin. According to this last meaning, legal statements that affirm the legal existence or validity of a norm do not assert an empirical fact (i.e. they do not affirm any of the three meanings described by Bulygin), but neither can they be assimilated with statements about the existence in an absolute moral sense (the fourth meaning indicated by Bulygin). Legal existence or validity is certainly not a property of legal norms; nevertheless, it is a (non-natural) property that certain (usually normative) semantic content has if, and only if, the circumstances laid out by an accepted constitutive pattern occur. The acceptance of this pattern does not explain why certain semantic contents are normative. It explains why certain semantic content (whether it is normative or not) has legal validity, that is, why it becomes part of a legal system and valid from a legal point of view.

References

[17] This point has also been highlighted by Caracciolo. However, even though Caracciolo criticizes Bulygin for not being aware that these are four senses of norms and not of existence, he does agree with him regarding the fact that there are only two ways (exclusive and exhaustive) in which it can be said that an object exists.

Bulygin, E. (1999). *True or False Statements in Normative Discourse*, in R. Egidi (ed.), *In Search of a New Humanism. The Philosophy of Georg Henrik von Wright*, Dordrecht, Kluwer Academic Publishers.

Bulygin, E. (1990). *An Antinomy in Kelsen's Legal Theory*, «Ratio Juris», 3, 29-45.

Bulygin, E. (1982). *Normative Propositions, and Legal Statements*, in G. Fløistad (ed.), *Contemporary Philosophy*: *a New Survey*. Vol. 3: *Philosophy of Action*, The Hague, Martinus Nijhoff, 127-152.

Bulygin, E. (1991a).“Normas, proposiciones normativas y enunciados jurídicos”, in Carlos Alchourrón and Eugenio Bulygin, *Análisis lógico y Derecho*, Madrid, Centro de Estudios Constitucionales, 169-193

Hart, H.L.A. (1961). *The Concept of Law*, Oxford, Clarendon Press.

Searle, J.R. (1995). *The Construction of Social Reality*, New York, Free press.

Searle, J.R. (2010). *Making the Social World. The Structure of Human Civilization*, Oxford, Oxford University Press.

Bulygin, E. (1976). *Sobre la regla de reconocimiento* in AAVV, *Derecho, filosofía y lenguaje. Homenaje a Ambrosio L. Gioja*, Buenos Aires, Astrea.

Bulygin E. (1991b). *Algunas Consideraciones sobre los sistemas jurídicos*, «Doxa » 9, 1991, 257-279.

Caracciolo, R. (2009). *Existencia de normas* in Id. *El Derecho desde la Filosofía. Ensayos*, Madrid, Centro de Estudios Políticos y Constitucionales, 183-203.

Caracciolo, R. (994). *L'argomento della credenza morale*, in P. Comanducci and R. Guastini (eds.) *Analisi e diritto 1994*, Torino, Giappichelli, 97-110.

Mc Cormick, N. (1981). *H.L.A Hart*, London, Eduard Arnold Publishers.