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# PHENOMENOLOGY AND MIND

*THE TRUE,  
THE VALID,  
THE NORMATIVE*

*Edited by Paolo Di Lucia and Lorenzo Passerini Glazel*

Rosenberg & Sellier

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# INTRODUCTION

# INTRODUCTION

*Paolo Di Lucia and Lorenzo Passerini Glazel*  
Introduction. *Veritas in Dicto, Veritas in Re*

*Amedeo Giovanni Conte*  
Three Paradigms for a Philosophy of the True: Apophantic Truth, Eidological Truth,  
Idiological Truth

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# INTRODUCTION.

## *VERITAS IN DICTO, VERITAS IN RE<sup>1</sup>*

1 The present Introduction is the joint work of two authors: Paolo Di Lucia is the author of §§ 1., 2., and 5.; Lorenzo Passerini Glazel is the author of §§ 3. and 4. The authors of the Introduction are grateful to the Editorial Board of “Phenomenology and Mind”, especially to the Editors in chief Roberta De Monticelli and Francesca De Vecchi, as well as to Francesca Forlé and Sarah Songhorian, for the invitation to edit this special issue, as well as for their precious assistance in the publication process. We also thank the Faculty of Philosophy and the PhD School in Philosophy of the University Vita-Salute San Raffaele, as well as the research centre PERSONA, the centre of studies CeSEP, and the centre for interdisciplinary studies CISEPS, for their contribution to the organization of the 2022 San Raffaele School of Philosophy.

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*Omnes enim de veritate significationis loquuntur:  
veritatem vero, quae est in rerum essentia, pauci considerant.*  
Anselm of Canterbury<sup>1</sup>

*Veritas enim in dicto, non in re consistit.*  
Thomas Hobbes, 1655/1961; 1656<sup>2</sup>

**1. The San  
Raffaele School of  
Philosophy “The  
True, the Valid,  
the Normative”**

The present special issue of *Phenomenology and Mind* collects fifteen essays originating from the San Raffaele School of Philosophy “The True, the Valid, the Normative”, which took place at Palazzo Arese Borromeo in Cesano Maderno on September 20<sup>th</sup> to 22<sup>nd</sup>, 2022. The 2022 edition of the San Raffaele School of Philosophy was organized by the Faculty of Philosophy of the University Vita-Salute San Raffaele in collaboration with the research centres PERSONA (Research Centre in Phenomenology and Sciences of the Person), CeSEP (Centro Studi di Etica e Politica), and CISEPS (Center for Interdisciplinary Studies in Economics, Psychology and Social Sciences). The special issue collects the papers of five scholars – Pedro M. S. Alves, Roberta De Monticelli, Anna Donise, Pascal Richard, and Wojciech Żełaniec – that were invited to take part to the School of Philosophy and ten further papers of contributors, that were selected on the basis of a call for papers and presented at the School. To introduce the reader to some of the topics that inspired the School and this special issue we have included the English translation of the first chapter of Amedeo G. Conte’s book *Adelaster. Il nome del vero* (Conte, 2016), in which he suggests three possible paradigms for the elaboration of a philosophy of truth. The final section of the special issue collects three further papers that were not presented at the San Raffaele School of Philosophy.

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1 Sancti Anselmi, *Dialogus de veritate*, c. 9. The English translation in Anselm of Canterbury, 1991, is: “For all speak of the truth of signification, but few consider the truth that is in the essence of things” (p. 163).

2 Thomas Hobbes, *Elementorum philosophiae*, Sectio prima, *De corpore*, Pars prima, *Computatio sive Logica*, c. 3, *De propositione*, I., 7 (Hobbes, 1655/1961, p. 31). In the 1656 English translation, which was revised and integrated by Hobbes himself, the passage is as follows: “For Truth consists in Speech, and not in the Things spoken” (Hobbes, 1656, p. 26).

The inquiry into the concepts of *true* and *false* has generally privileged, in contemporary philosophy, *apophantic* truth, that is, the truth of *dicta* (sentences, propositions, statements, or utterances). However, the predicates ‘true’ and ‘false’ seem to apply not only to *dicta* but also to things, to *res*. The Italian semiologist Gianfranco Bettetini (1985) remarks that, while it is perfectly justified that the investigation into a truth of things has been disregarded in the context of linguistics and philosophy of language, it is on the contrary absurd that it has been “neglected by almost all the other contemporary philosophies” (p. 13).<sup>3</sup> Some remarkable exceptions are philosophers like Joseph Pieper (1947), Martin Buber (1953), Josef M. Bocheński, (1959), and Albert Hofstadter (1965).

A new perspective on the analysis of the manifold cases where we speak of the truth and falsity of *res* – of things – has been introduced in the past decades by Amedeo Giovanni Conte (Pavia, 1934–Cava Manara, 2019) in a series of works that he more recently re-collected and re-elaborated in the book *Adelaster. Il nome del vero* (Conte, 2016).<sup>4</sup> As an introductory paper for the present special issue, we have translated the first chapter of *Adelaster* entitled *Three Paradigms for a Philosophy of the True: Apophantic Truth, Eidological Truth, Idiological Truth*.

In this chapter, Conte illustrates a main distinction between two species of truth – *de dicto* truth and *de re* truth – which has inspired the whole project of the 2022 edition of the San Raffaele School of Philosophy.

*De dicto* – or *semantic*, or *apophantic* – truth specifically pertains to a *dictum*, notably to a *sentence*: the *de dicto* truth consists in the correspondence of a sentence to a state-of-affairs.

*De re* – or *ontological* – truth pertains instead to *res*, like in the case, for instance, of a true professor, a true diamond, true gold, a true question, a true norm, a true warrior, a true banknote, and the true Kant.

In his articulated analysis, Conte further distinguishes different kinds of *de re* truth.

*Idiologial* truth consists in an *identity* relation: an entity *X* is the *idiologically-true* *Z* if, and only if, *X* is in an identity relation with *Z* (Conte, 2016, pp. 31–34). More precisely, *idiologial* truth consists in the *identity* to an *ídon* [ἴδων], to an individual entity. The *idiologically-true* surname of Alfred Tarski, for instance, is ‘Tajtelbaum’, and the *idiologically-true* cause of Napoleon’s death was a cancer, not poisoning.

Whereas *idiologial* truth is an *identity* relation, *eidological* truth consists, instead, in a correspondence relation, namely in the correspondence of an entity to an *eídos* [εἶδος]: an *X* is an *eidologically-true* *Y* if, and only if, *X* corresponds to the *eídos* of *Y* (Conte, 2016, pp. 29–30). For instance, a member of the teaching staff of a university is an *eidologically-true* university professor if, and only if, he or she corresponds to the *eídos* of the university professor.

To the general distinction of *de dicto* truth and *de re* truth, as well as to the different kinds of *de re* truth and their general implications in the investigation of the varieties of truth is devoted the *first section* of this special issue entitled *Truth of Language (De Dicto Truth) vs. Truth of Things (De Re Truth)*. The papers of the first section are:

1. *Ockham’s Razor, or the Murder of Concreteness. A Vindication of the Unitarian Tradition* by Roberta De Monticelli;

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<sup>3</sup> As Pieper (1947, ch. 4) underlines, the notion of a “truth of things” was elaborated in a systematic way in Medieval philosophy by Thomas Aquinas. This notion was prefigured in Augustinus of Hippo, Avicenna, Averroes, Anselm of Canterbury, Alexander of Hales, Albertus Magnus. On the notion of ontological truth or truth of the being, see also Mondin (1964, pp. 251–256).

<sup>4</sup> A distinction of a *semantic* and an *ontological* meaning of the adjective ‘true’ is already drawn in Conte 1992/1995a (pp. 473–475).



2. *Monadic Truth and Falsity* by Richard Davies;
3. *One but not the Same* by Stefano Caputo;
4. *True God and True Man: Some Implications* by Paolo Heritier.

**3. From De Actu Truth to the Investigation of the Normative and Axiological Dimensions of De Re Truth**

A peculiar kind of *de re* truth is *de actu* truth, which Conte specifically investigates in his research on the pragmatics of the act of testimony (2016, chapter 4. “*Verò de dicto vs. verò de actu*”, pp. 71-78). In the act of testimony, the *de dicto* truth of *what is said* should be distinguished from the *de actu* truth of *the act of saying*. The act of testimony may, indeed, have specific pragmatic and validity conditions within a normative system. According to the biblical tradition, for instance, one cannot bear witness to oneself. Thus, as Jesus recalls in John, 5:31, a testimony to oneself would not be a *de actu true* testimony, because it would not be a *valid* act of testimony: “If I bear witness to myself, my testimony is not true.”<sup>5</sup> In another connection, the Pharisees expressly object to Jesus: “You are bearing witness to yourself; your testimony is not true” (John, 8:13). In these quotations it is not implied that, if one bears witness to oneself, the content – what is said – of his or her testimony is necessarily false; these quotations rather mean that the *act of saying* a testimony to oneself is not a (*de actu*) *true* act of testimony, it is not a valid act of testimony. Conte highlights that such *de actu* truth of the act of testimony (which has specific *pragmatic* and validity conditions) is independent of the possible *de dicto* truth of *what is said* in the act of testimony, a *de dicto* truth which has instead *semantic* conditions (which are independent of any normative system). In John, 5:32, Jesus, for instance, says: “There is another who bears witness to me, and I know that the testimony which he bears to me is true”; and in John, 8:14, He replies to the Pharisees: “Even if I do bear witness to myself, my testimony is true, for I know whence I have come and whither I am going”. The Bible mentions another specific condition of validity of the act of testimony: the testimony must be borne by at least two persons (see *Deuteronomy*, 19:15: “Only on the evidence of two witnesses, or of three witnesses, shall a charge be sustained”). Jesus expressly mentions this condition of validity: “In your law it is written that the testimony of two men is true; I bear witness to myself, and the Father who sent me bears witness to me” (John, 8:17-18).

The analysis of the *de actu* truth of the act of testimony thus suggests that there can exist specific relations between *truth*, *validity*, and *normativity*. Indeed, the *validity* and the *de actu truth* of the act of testimony both depend upon normative conditions. However, it is possible to distinguish two different kinds of normative conditions of the validity – and the *de actu* truth – of the act of testimony. On the one hand, indeed, the validity condition that the testimony must be borne by at least two persons seems to be an *extrinsic* condition of validity of the act of testimony, a condition which is specifically established by a particular positive normative system (the normative system to which the *Deuteronomy* belongs). For the conditions of validity of an act that are extrinsically established by a positive normative system Conte proposes the name “*praxeonomical* conditions of validity” (Conte, 1988/1995b, pp. 366, 385-386). On the other hand, one could argue that a testimony borne to oneself is *not a de actu true testimony at all*, independently of any positive normative system: this condition of the validity – and the *de actu* truth – of the act of testimony is rather dependent on an *intrinsic* normativity of the act itself. For the conditions of validity of an act that are *not* established by a positive normative system, and are intrinsic, or inherent, to the inner constitution of the act itself – to the concept, or *eîdos*, of the act – Conte proposes the name “*praxeological* condition of

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<sup>5</sup> For the English translation of the Gospel of John, we make reference to *The Holy Bible. Revised Standard Version Catholic Edition*, 1965.

validity” (1988/1995b, pp. 363-366, 385-386).

The praxeological conditions of validity and of the *de actu* truth of the act of testimony reveal an interesting overlapping between the notion of *de actu* truth and the notion of *eidological* truth: a testimony that is borne to oneself is not a *de actu* true testimony because it is not an *eidologically*-true testimony: it does not correspond to the *eîdos* of the act of testimony. This suggests that some relations between truth, validity, and normativity may obtain also in other cases of *de re* truth.

This is apparent in the case of institutional entities such as a banknote, a certificate, or a holographic will, for which some specific normative conditions of validity may be established by specific norms. If such normative conditions are not met, a given X would not be a true (a valid) banknote, a true (a valid) certificate, a true (a valid) holographic will, respectively. In the domain of institutional phenomena, the *de re* truth (or, conversely, the *de re* falsity) of an entity may thus be directly linked to, and conditioned by, the *constitutive rules* that determine the validity conditions of that entity (see Conte, 1988; 2021).

However, the investigation of the possible relations between *de re* truth, validity, and normativity become even more thought-provoking when normativity – like in the case of the *praxeological* conditions of validity of the act of testimony – seems to stem from the *eîdos* itself of a given entity, independently of any positive normative system. This seems to be the case, for instance, when we speak of a *true* warrior, a *true* question, a *true* theory, a *true* science. Can it be argued, therefore, that some specific oughts or norms can be derived from the *concept*, or *eîdos*, of an entity – for instance, when we say that a *true* warrior *ought* to be brave, as suggested by Edmund Husserl (1900-1901/1970)? In this case an *axiological* deontic normativity seems to be implied in the *eidological* truth of the warrior.<sup>6</sup>

These axiological dimensions of *de re* truth may possibly be connected to some aspects of what has recently been dubbed ‘dual character concepts’ – that is, concepts that imply or encode both a descriptive and a normative and evaluative dimension for categorization, such as the concept of artist or scientist (see Knobe et al., 2013; Leslie, 2015; Reuter, 2019).

However, the various investigations into the *eidological* truth and its relation to an intrinsic normativity should also address an underlying question: What are the foundations, or the sources, of the normativity that is presupposed in assertions like: “A true warrior ought to be brave” or “Smith is not a true scientist”?

To the investigation of the normative and axiological dimensions connected to the notion of *de re* truth is devoted the *second section* of this special issue, entitled *Truth of Things and the Normative and Axiological Dimensions of Reality*.

The papers of the second section are:

1. *A Stratified Theory of Value* by Anna Donise;
2. *On Emotional Truth* by Venanzio Raspa;
3. *No True Persuasive Definition Marginalizes?* by Sergei Talanker;
4. *Subjective Meanings and Normative Values in Alfred Schutz’ Philosophy of Human Action* by Carlos Morujão.

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<sup>6</sup> One could also speak here of an “axiological truth”, which can be obviously intertwined or connected with Conte’s notion of *eidological* truth. According to Alois Roth, the expression ‘axiological truth’ (*axiologische Wahrheit*) already appears in a manuscript by Husserl dated 1911 and entitled *Ideen der “philosophischen Disziplinen”* (Roth, 1960, p. 80; see Conte, 1992/1995a, p. 488).

**4. What Is a True Norm? The Connections Between Truth, Validity, and Normativity**

The *third section* of this special issue, which is entitled *Truth, Validity, and Normativity*, is also related to the possible connections between truth and normativity; however, while the main questions of the previous section regard the possibility that the *de re* truth of an entity is connected to some extrinsic positive norms or to some intrinsic eidological constraints, in this third section the question is rather: What is a *true norm*?

If norms are conceived of as *dicta* – i.e., as linguistic entities – this question may concern the very possibility of a *de dicto* truth of norms, in parallel with the *de dicto* (apophantic) truth of descriptive sentences.

This question has long been debated in the context of deontic logic.<sup>7</sup> Against the widespread view that norms cannot be true or false – they are non-apophantic entities – the French-Polish logician and legal philosopher Jerzy (*vel* Georges) Kalinowski has introduced a peculiar notion of the “truth of norms” (“*vérité des normes*”), which he understands as the semantic correspondence of a norm to a *pre-existing* “deontic reality” – a claim that obviously implies strong and controversial metaphysical commitments (Kalinowski, 1964; 1967; see also Azzoni, 1992; Conte, 1988/1995b, pp. 381-383). Conte, on his part, suggests the hypothesis that a different, and less controversial, construal of the *de dicto* truth of norms may be advanced. Rather than as correspondence to a *pre-existing* (metaphysically compromised) deontic reality, the *de dicto* truth of norms – which he also calls “deontic truth” – may be understood as the correspondence of a normative sentence to the deontic state-of-affairs that is produced by the valid utterance of the normative sentence itself (Conte, 1988/1995b, pp. 378-381). In fact, if the normative sentence ‘It is forbidden to smoke in public premises’ is uttered in a normative act of a legislative authority, it produces the deontic state-of-affairs that it is forbidden to smoke in public premises, and thus renders itself (the normative sentence) *de dicto* true. This peculiar self-verification of normative sentences seems to imply not only that norms *can be de dicto* true, but also that they *necessarily are de dicto* true.

However, the question: What is a true norm? can also be construed in terms of a *de re* truth of norms. The question would then become: What is a *de re* true norm?

One could wonder, for instance, whether an *unjust*, or an *invalid*, or an *ineffective* norm is a *de re* true norm. According to Augustine of Hippo, for instance, a law which is not *just* is not a (*de re*) true law (see Augustine, *De libero arbitrio*, 1.5.11.33). In a different perspective – which is implied, for instance, in Hans Kelsen’s well-known definition of validity as the specific existence of a norm – an *invalid*, rather than an unjust, norm is not a (*de re*) true norm (see Kelsen, 1960/2005, p. 10). According to a further perspective, maintained by legal realists such as Karl Llewellyn, who contrasts “real rules” to “paper rules”, those norms that, despite being validly promulgated, prove to be ineffective are not (*de re*) true norms: they are norms merely on paper (Llewellyn, 1930, p. 448).

The papers of the third section, entitled *Truth, Validity, and Normativity*, are:

1. *A Phenomenological Analysis of the Nomothetic Noema. Discussing the De Dicto and De Re Formulations of Normative Sentences* by Pedro M.S. Alves;
2. *Things We Must Never Do (If Any)* by Wojciech Żelaniec;
3. *Can Linguistic Correctness Provide Us with Categorical Semantic Norms?* by Sara Papic;
4. *Custom in Action. Ferdinand Tönnies’ Ontology of the Normative* by Virginia Presi.

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<sup>7</sup> See, for instance, von Wright (1983).

In contrast to the perspectives envisaged by Kalinowski and Conte (see § 3.) according to which a norm is (*de dicto*) true in virtue of its correspondence to a *deontic* reality, the Italian pedagogist and philosopher Aldo Visalberghi (1958/1966) suggests that a norm becomes true if, and only if, it is made true in the *ontic* reality, notably if, and only if, either of its constitutive alternatives is verified: if it is either actually abided to, or the provided sanction is actually applied.<sup>8</sup> Visalberghi thus seems to identify the (*de dicto*) truth of a norm with its “effectuality” (*effettualità*) – i.e., with the fact that either the prescribed behaviour or the sanction actually occurs. Interestingly enough, in Visalberghi’s view, the *de dicto* and *de re* truth of norms seem to conflate: he claims, indeed, that a norm which is deprived of effectuality – and is therefore *de dicto* false – is not by the same token a *de re* true norm: “A law of which it is known that it can be violated with impunity, is not a true law” (1958/1966, pp. 62-63).

Independently of a full sharing of Visalberghi’s claims, his analysis may arouse further reflections on the possible relations between the truth, the validity, and the effectiveness of norms.

The *fourth section* of this special issue is especially devoted to two provoking aspects of these relations.

The *first* aspect concerns the idea that “the person with common sense acts just as if the commands had truth values:” indeed, “[i]f he considers it probable that no fearful consequence will result from not executing them, he does not actually consider them commands, but vocal or rhetorical exercises” (Visalberghi, 1958/1966, p. 62). This idea proposed by Visalberghi can be confronted with a passage of the *Thoughts* of Blaise Pascal: “[S]ince they believe that truth can be found, and that it resides in law and custom, [the common people] believe these laws, and take their antiquity as a proof of their truth, and not merely of their authority apart from truth” (Pascal, 1670/1901, p. 65, translation modified).<sup>9</sup>

The *second* aspect concerns the very notion of the effectiveness of a norm. In the perspective that norms should prove true within a society in virtue of their effectiveness, how is the effectiveness of a norm to be understood? In fact, while it is traditionally and paradigmatically conceived of as the fulfilment of the norm, or as the correspondence of actual behaviour to the norm, recent research has indeed shown that the effectiveness – or the “operancy” – of a norm cannot be reduced to its mere fulfilment, nor to the correspondence between actual behaviour and the norm.<sup>10</sup> Under the notion of “nomotropic behaviour” (that is, of a behaviour that is oriented towards a norm, or behaviour in-function-of a norm), Conte (2000; 2011) investigates many forms of behaviour that, despite being oriented towards a norm, do not consist in the fulfilment of the norm and do not imply any correspondence of the behaviour to the norm. This is the case, for instance, of the behaviour of the thief notoriously described by Max Weber (1922/1976, p. 16): the thief indeed violates the norms against theft, but he still acts in-function-of those norms in concealing his action. Analogously, a cheater in poker does not conform his behaviour to the rules of poker when he cheats, but he still acts in-function-of those rules when he unfairly and surreptitiously extracts an ace from his sleeve.

**5. Truth and Validity in Action: Norm Effectiveness and Nomotropic Behaviour**

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<sup>8</sup> According to Visalberghi (1958/1966), norms (commands and prohibitions) can be translated into (apophantic) assertions of the form “Either you do *this*, or you will incur *that*”, which can be true or false depending on the fact that the alternative actually applies – so that, if you do *not* do *this*, you will *actually* incur *that*. Visalberghi specifies that in order to properly and exhaustively make this translation it is necessary to have a full understanding of the whole context (both in terms of the *linguistic context* and the *whole situation*) in which the assertion is made (see pp. 37-42).

<sup>9</sup> “Le peuple [...], ainsi comme il croit que la vérité se peut trouver et qu’elle est dans les lois et coutumes il les croit et prend leur antiquité comme une preuve de leur vérité (et non de leur seule [...] autorité, sans [...] vérité)” (Pascal, 1670/1962, p. 249; on this passage of the *Pensées*, see also Gazzolo, 2023, p. 68).

<sup>10</sup> See, for example, Conte (2000; 2011), Di Lucia (1996; 2003), Fittipaldi (2002), Passerini Glazel (2012; 2020).

A further argument against the identification of effectiveness with fulfilment is the existence of norms and rules that do not prescribe any behaviour, and consequently are not fulfillable at all. This is the case, for instance, of a norm establishing that one's legal capacity begins with birth, or a norm that establishes as a necessary condition for participation in a competition not to have reached the age of 40. The structural impossibility to be fulfilled does not prevent the possibility that people act in-function-of such norms.

The papers of the fourth section, entitled *Truth and Validity in Action: Norm Effectiveness and Nomotropic Behaviour*, are:

1. *Norms as "Intentional Systems"* by Pascal Richard;
2. *The Semantic Conception of Efficacy and Constitutive Rules: Mapping a Tough Relationship* by Alba Lojo;
3. *Normativity, Truth, Validity and Effectiveness. Remarks Starting from the Horizon of the "Common Sense"* by Giovanni Bombelli.

The final section of this special issue (*Further Contributions*) collects three further papers that were not presented at the San Raffaele School of Philosophy. The first paper, *Matter at a Crossroads: Givenness vs Forceful Quality* is an invited contribution by Caterina Del Sordo and Roberta Lanfredini. The second is a paper by Stefano Colloca partially connected to the topics of the School: *On the Deontic Validity of the General Exclusive Norm*. The third and last one is a paper freely submitted by Alessandro Volpe, entitled *Doing Justice to Solidarity: On the Moral Role of Mutual Support*.

We are grateful to all the authors for their precious and stimulating contributions.

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# THREE PARADIGMS FOR A PHILOSOPHY OF THE TRUE: APOPHANTIC TRUTH, EIDOLOGICAL TRUTH, IDIOLOGICAL TRUTH<sup>1</sup>

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## *abstract*

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*The investigation of concept of “true” and “false” has long privileged in contemporary philosophy apophantic truth, that is, the truth of dicta (sentences or propositions). To which entities, though, beyond dicta, the predicate ‘true’ pertains? This paper sheds a light on the less frequently investigated cases where we speak of a truth of things, or res. We say, for instance, that a 17 euros banknote is not a true banknote, or that a true soldier ought to be brave. The paper, thus, distinguishes, beside the concept of de dicto (apophantic) truth, the concept of de re truth and two of its subspecies: eidological truth and idiological truth.*

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## *keywords*

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*truth; de dicto truth; apophantic truth; de re truth; eidological truth; idiological truth; philosophy of truth*

<sup>1</sup> The present paper is the English translation made by Paolo Di Lucia and Lorenzo Passerini Glazel of the first chapter (*Tre paradigmi per una filosofia del vero: verità apofantica, verità eidologica, verità idiologica*) of Amedeo G. Conte, *Adelaster. il nome del vero*. Milano, LED, 2016 (pp. 21-37). The editors of this special issue are grateful to Adelheid Conte and to LED (Edizioni di Lettere, Economia e Diritto), in the person of Valeria Passerini, for the authorization to publish this translation.



Ἄπλοῦς ὁ μῦθος τῆς ἀληθείας ἔφω.

*It is simple the discourse of truth.*

Euripide [Εὐριπίδης] [Salamina Σαλαμῖνα, 480 B.C.E. – Pella Πέλλα, 406 B.C.E.]

*Simplex sigillum veri.*

Ludwig Wittgenstein [Wien, 1889 – Cambridge (Great Britain), 1951]

*“Alle Wahrheit ist einfach”. –*

*Ist das nicht zwiefach eine Lüge?*

*“All truth is simple”. –*

*Is this not a double lie?*

Friedrich Wilhelm Nietzsche [Röcken, 1844 – Weimar, 1900]

## 0. De Dicto Truth vs. De Re Truth

0.1. Question: *Of What  
Entities the Adjective  
'True' Is Predicated?*

The question is ancient:

Τί ἐστὶν ἀλήθεια;

*Quid est veritas?*<sup>1</sup>

I will not reiterate the ancient question asked by Pontius Pilate; I will not enquire, with Martin Heidegger,<sup>2</sup> into the *Wesen der Wahrheit*, into the essence [*Wesen*] of truth. Instead of the

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1 It is not inconvenient here to remind that not every word [verbum] is a name [nomen]: “*Non omne verbum nomen est*” (Augustine of Hippo [Aurelius Augustine from Tagaste, 354-430]).

2 According to a hypothesis documented in Martin Heidegger [1889-1976]:

(i) the initial *alpha* of ἀλήθεια [alétheia] is an *alpha privativum* (in Greek: α στερητικόν [here are four examples of Italian Grecisms with an *alpha privativum*: ‘acéfalo’ “acephalus, without head”; ‘anomía’ “anomy, absence of norms”; ‘acrisia’ “lack of critical sense”; ‘adeontico’ “adeontic, non-deontic”]);

(ii) correspondingly, ἀλήθεια [alétheia] means “non-latency”, “illatency”, “non-concealment”.

The hypothesis of *alpha privativum* is a legitimate hypothesis. However, it is not *in abstracto* illegitimate the alternative hypothesis that I have formulated of *alpha intensivum*: the initial *alpha* of ἀλήθεια [alétheia]:

(i) is not an *alpha privativum* (in Greek: α στερητικόν) but rather an *alpha intensivum* (in Greek: α ἐπιτατικόν [an example of *alpha intensivum* is the initial *alpha* of the adjective ‘ἀτενής’ [atenés]: ‘ἀτενής’ [atenés] does not mean “not-tense”, but “very tense”, “intense”);

(ii) correspondingly, ἀλήθεια [alétheia] means “high latency”, “supreme latency”, “maximum of latency”.

ancient question:

*Quid est veritas?*

I will ask a new question:

Of what entities the adjective 'true' is predicated?  
(What are the entities of which 'true' is predicated?)

Here is my answer. The adjective 'true' is predicated of heterogeneous, categorically different entities: 'true' is predicated

- (i) not only (and specifically) of *dicta*, of *linguistic* entities, of *sentences*,
- (ii) but also (generically) of *any* entity, be it a *linguistic* or a *non-linguistic* entity.

0.2. Answer  
to the Question:  
*The Adjective 'True'  
Is Predicated Both  
De Dicto and De Re*

Two examples:

- (i) 'true' is predicated of a *dictum* (of a *linguistic* entity, of a sentence [*enunciato*, *Satz*, *énoncé*, *zdanie*]) when one asserts that the sentence 'Snow is white' is *true* (that it is a *true* sentence);
- (ii) 'true' is predicated of a *non-linguistic* entity (and more precisely of a number) when one asserts that  $\sqrt{2}$  is not a *true* number.

To put it differently: 'true' can be predicated

- (i) both, *in specie*, of a *dictum* (of a sentence [*enunciato*, *Satz*, *énoncé*, *zdanie*]),<sup>3</sup>
- (ii) and, *in genere*, of a *res*.

Here is my terminological proposal.

- (i) For 'true' as a predicate of a *dictum* I suggested the term '*de dicto true*'.<sup>4</sup>
- (ii) For 'true' as a predicate of a *res* I suggested the term '*de re true*'.<sup>5</sup>

Accordingly:

- (i) for the truth that is predicated of a *dictum* I suggested the term '*de dicto truth*';<sup>6</sup>
- (ii) for the truth that is predicated of a *res* I suggested the term '*de re truth*'.

The *first* part (§ 1.) of this essay (*Three Paradigms for a Philosophy of the True*) is devoted to *de dicto* truth; the *second* part (§ 2.) is devoted to *de re* truth.

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<sup>3</sup> The nominative plural of the Latin neutral noun '*dictum*' is '*dicta*'; the ablative singular is '*dicto*'.

<sup>4</sup> '*Dicto*' is the singular ablative of '*dictum*'. (The Latin preposition '*de*' takes the ablative: see, for instance, the three following titles: *De bello gallico* [Gaius Julius Caesar], *De senectute* [Marcus Tullius Cicero; Norberto Bobbio], *De scacchorum ludo* [Marcus Hyeronimus Vida].)

<sup>5</sup> '*Re*' is the ablative singular (taken by the preposition '*de*') of '*res*'.

<sup>6</sup> A possible alternative to '*de dicto true*' is '*logologically-true*' ('*logologisch-wahr*'). Correspondingly, a possible alternative to '*de dicto truth*' is '*logological truth*' ('*logologischs Wahrheit*'). This is a terminological alternative (an alternative terminology) that I immediately abandoned and will not use in the present paper.

**1. De Dicto Truth  
(Apophantic Truth)**

1.0. Introduction The present § 1. is devoted to *de dicto* truth.

1.1. The Concept  
of De Dicto Truth  
(Apophantic Truth)

‘*De dicto* true’ is a predicate which is *specific* of a *dictum* (of a λεκτόν *lektón*). *De dicto* truth is the truth that is specific of *dicta* (of λεκτά *lektá*): more precisely, of sentences [*enunciati*, *Sätze*, *énoncés*, *zдания*].

A sentence [*enunciato*, *Satz*, *énoncé*, *zдание*] is *de dicto* true if, and only if, it is in a correspondence-relation with the state-of-affairs [*stato-di-cose*, *Sachverhalt*, *état-de-choses*, *stan rzeczy*] it is about.

The *de dicto* truth [in Italian: ‘*verità de dicto*’; in German: ‘*Wahrheit de dicto*’; in French: ‘*vérité de dicto*’; in Polish: ‘*prawda de dicto*’] of a sentence [*enunciato*, *Satz*, *énoncé*, *zдание*] consists in the correspondence with the state-of-affairs [*stato-di-cose*, *Sachverhalt*, *état-de-choses*, *stan rzeczy*] the sentence is about.<sup>8</sup>

1.2. Three Examples of  
De Dicto Truth

The adjective ‘true’ means “*de dicto* true” in the three following examples:

- (i) “The mathematical sentence ‘3 is a prime number’ is a *true* sentence”.
- (ii) “The chromatic sentence ‘Snow is white’ is *true* if, and only if, snow is white”.
- (iii) “The heliocentric theory is *true*”.

1.3. An Anomalous  
Phenomenon: Thetic  
De Dicto Truth

A provocative, paradoxical case of *de dicto* truth is the case of *thetic de dicto* truth. I dub *thetic* truth [*verità thetica*, *thetische Wahrheit*, *vérité thétique*, *prawda tetyczna*] the truth (the *de dicto* truth) of a sentence that is produced by the *thetic* utterance [*enunciazione thetica*, *thetische Äußerung*, *énonciation thétique*, *wypowiedź tetyczna*] of that sentence. Four examples of *thetic* truth: the truth of the four following sentences

- (i) “Σὺ εἶ Πέτρος”  
“*Tu es Petrus*”;<sup>9</sup>
- (ii) “*La difesa della patria è sacro dovere del cittadino*”  
“The defense of the Fatherland is the sacred duty of every citizen”<sup>10</sup>;
- (iii) “*Stolica Rzeczypospolitej Polskiej iest Warszawa*”  
“Warsaw shall be the capital of the Republic of Poland”;<sup>11</sup>
- (iv) ‘Given a line and a point outside it there is exactly one line through the given point which lies in the plane of the given line and point so that the two lines do not meet’.

1.4. The Twofold  
Connection Between  
De Dicto Truth  
and the Linguistic  
Nature of an Entity in  
Bertrand Russell

The thesis according to which ‘true’ is a predicate specific to linguistic entities is documented in the two following passages by Bertrand Russell [Bertrand Arthur William Russell, 3rd Earl Russell: Trellech, 1872 - Penrhyndeudraeth, 1970]:

<sup>7</sup> The noun ‘*Sachverhalt*’ has become established in philosophical lexicon despite the harsh critique addressed to it by Arthur Schopenhauer [Danzig/Gdańsk, 1788 – Frankfurt am Main, 1860] in *Parerga und Paralipomena*, 1851.

<sup>8</sup> The German feminine noun ‘*Sache*’ “thing”, “*res*”, fortuitously assonates both with

(i) ‘*Sprache*’, “language”, “*linguaggio*”, “*langage*”,

(ii) and ‘*Satz*’, “sentence”, “*enunciato*”, “*énoncé*”.

This fortuitous assonance, devoid of philosophical significance, has inspired me two German names of the *de dicto* truth:

(i) ‘*Sprachwahrheit*’,

(ii) ‘*Satzwahrheit*’.

<sup>9</sup> Matthaëus [Κατὰ Μαθθαῖον. *Gospel of Matthew*], 16:16.

<sup>10</sup> *Costituzione della Repubblica Italiana*, art. 52.

<sup>11</sup> *Konstytucja Rzeczypospolitej Polskiej*, art. 29

- (i) “A proposition is anything that is true or that is false”.<sup>12</sup>
- (ii) “We mean by ‘proposition’ primarily a form of words which expresses what is either true or false”.

As can be seen, in Russell the connection between *de dicto* truth and the linguistic nature of an entity is twofold:

- (i) *de dicto* truth is a predicate of linguistic entities (of “forms of words”),
- (ii) the possibility of *de dicto* truth (the possibility in which the Aristotelian apophantic nature of an entity consists) is constitutive of the very concept of *proposition*.

The foregoing § 1. was devoted to *de dicto* truth; the present § 2. is devoted to *de re* truth.

In contemporary analytic philosophy, *de dicto* truth is privileged: ‘true’ is mainly investigated as a predicate of *sentences* [*enunciati, Sätze, énoncés, zdania*]. However, it is false that ‘true’ *exclusively* means “*de dicto* true”; it is false that ‘true’ *exclusively* befits *dicta*, sentences.

On the contrary: the adjective ‘true’ has also other meanings: other meanings according to which it can be predicated of entities that are *not* sentences [*enunciati, Sätze, énoncés, zdania*]. It is the phenomenon of *de re* truth (*Sachwahrheit*).

The term ‘true’ means “*de re* true” in the eight following examples:

- (i) ‘An unfalsifiable theory is not a *true* theory’.<sup>13</sup>
- (ii) ‘An uncontradictable theory is not a *true* theory’.<sup>14</sup>
- (iii) ‘According to Rudolf Carnap, metaphysical problems are not *true* problems: they are merely *Scheinprobleme* [apparent problems, pseudo-problems]’.<sup>15</sup>
- (iv) ‘A question that in principle does not admit an answer is not a *true* question’.
- (v) ‘A rhetorical question is not a *true* question’.
- (vi) ‘Only fulfillable obligations are *true* obligations’.
- (vii) ‘A testimony given for oneself is not a *true* testimony’.<sup>16</sup>
- (viii) ‘An invalid norm is not a *true* norm’.<sup>17</sup>

## 2. De Re Truth

### 2.0. Introduction

#### 2.1. De Re Truth: The Generic Concept [Gattungsbegriff]

##### 2.1.1. Eight Examples of De Re Truth

12 As cited in Lorini (2003, p. XV).

13 Thesis maintained by Karl Raimund Popper.

14 Thesis maintained by Amedeo Giovanni Conte.

15 See the juxtaposition: ‘*sein*’ “to be” vs. ‘*Schein*’ “appearance”. The word game (‘*sein*’ ‘*Schein*’) that exists in German can be rendered in other languages: in particular,

(i) in Dutch (where the verb ‘*zijn*’ “to be” rhymes with the noun ‘*schijn*’ “appearance”);

(ii) in French (where the verb ‘*être*’ “to be” rhymes with the verb ‘*paraître*’ “to appear”);

(iii) in Castilian (where the verb ‘*ser*’ “to be” rhymes with the verb ‘*parecer*’ “to appear”).

The word game ‘*sein*’ ‘*Schein*’, ‘*zijn*’ ‘*schijn*’, ‘*être*’ ‘*paraître*’, ‘*ser*’ ‘*parecer*’ cannot be rendered in Italian (where ‘*essere*’ “to be” does not rhyme with ‘*apparire*’ “to appear”), nor in a language akin to Castilian: Catalan (where neither ‘*ésser*’ nor ‘*ser*’ “to be” rhyme with ‘*aparèixer*’ “to appear”).

16 Johannes, 5:31; Johannes, 8:13.

17 In the following ingenious example (on the *enchère* [in English: bid]), formulated by Jean-Louis Gardies [1926-2004], the adjective ‘*fausse*’ (feminine of ‘*faux*’) occurs twice: in the *first* occurrence as *de re*; in the *second* as *de dicto*: “*Une fausse enchère serait aussi une enchère fausse*”. Analogously A.L. Machado Neto [1930-1977] writes: “*Sô a norma verdadeira é verdadeira norma*”.

2.1.2. Three  
Anomalous  
Phenomena: The  
Truth of *Norms*, the  
Truth of *Questions*,  
the Truth of *Names*  
2.1.2.0. Introduction

I said that the adjective ‘true’ means not only “*de dicto* true”, but also “*de re* true”. In particular: ‘*de re* true’ can be predicated of non-apophantic, anapophantic,<sup>18</sup> semiotic entities (norms, questions, names), that is, semiotic entities which have the privative [στερητικός] character of being non-apophantic (anapophantic) in common.

2.1.2.1. First  
Anomalous  
Phenomenon:  
The Truth  
of *Norms*

**2.1.2.1.1.** Firstly, it is ‘*de re* true’ that can be predicated of *norms* [*norme, Normen, norms, normy*], that is, anapophantic semiotic entities, i.e., semiotic entities of which ‘*de dicto* true’ cannot be predicated.

Four examples:

- (i) ‘An invalid norm is not a *true* norm’.
- (ii) ‘An unjust norm is not a *true* norm’.
- (iii) ‘An inefficacious norm is not a *true* norm’.
- (iv) ‘Unwritten customs are *very* laws’.<sup>19</sup>

**2.1.2.1.2.** The four aforementioned theses in terms of ‘*de re* true’ [‘*eidologisch-wahr*’] (‘An invalid norm is not a *true* norm’; ‘An unjust norm is not a *true* norm’; ‘An inefficacious norm is not a *true* norm’; ‘Unwritten customs are *very* laws’) are respectively documented in Hans Kelsen, Maximilien de Robespierre, Novalis, Thomas Hobbes.

- (i) “*Eine nicht-geltende Norm ist keine Norm*”.  
“A *non-valid* norm is not a *norm* [*ist keine Norm*]”. (Hans Kelsen)
- (ii) “*Toute loi qui viole les droits imprescriptibles de l’homme, est essentiellement injuste et tyrannique; elle n’est point une loi*”.  
“Every law that violates the imprescriptible rights of man is essentially *unjust* and tyrannical: it is not a *law* [*n’est point une loi*]”. (Maximilien de Robespierre)
- (iii) “*Ein Gesetz ist seinem Begriffe nach, wirksam. Ein unwirksames Gesetz ist kein Gesetz*”.  
“A law is effective [*wirksam*] by virtue of its own *eidos* [εἶδος] (by virtue of the *eidos* [εἶδος] of a law) [*seinem Begriffe nach*]. An *ineffective* law [*ein unwirksames Gesetz*] is not a *law* [*ist kein Gesetz*]”. (Novalis [Friedrich Leopold von Hardenberg])
- (iv) “*Unwritten customs are very laws*”. (Thomas Hobbes)

2.1.2.2 Second  
Anomalous  
Phenomenon:  
The Truth  
of *Questions*

**Secondly**, it is ‘*de re* true’ that can be predicated of *questions* [*demande, Fragen, questions, pytanía*]. (Questions, just like norms, are semiotic entities of which ‘*de dicto* true’ cannot be predicated.)

Two examples:

<sup>18</sup> *Apophantic* entities are semiotic entities of which the true and the false *can* be predicated. *Non-apophantic* (*anapophantic*) entities are entities of which the true and the false *cannot* be predicated. The adjective ‘apophantic’ [ἀποφαντικός] belongs to the philosophical lexicon of Aristotle of Stagira [384-322 B.C.E.]. Apophantic discourse [λόγος ἀποφαντικός] is a species of the meaningful discourse, of semantic discourse [λόγος σημαντικός]: in particular, it is ἀποφαντικός the discourse [λόγος] that is capable of being true or non-true. Not all meaningful discourses [not all λόγοι σημαντικοί] are apophantic [ἀποφαντικοί]: according to Aristotle, for instance, the εὐχή *euché* [the prayer] is λόγος σημαντικός (meaningful discourse), but not λόγος ἀποφαντικός (discourse capable of being true or non-true).

<sup>19</sup> The English adjective ‘very’ is here understood as a synonym of ‘true’. (Translator’s note)

- (i) ‘A question that in principle admits of no answer is not a *true* question’.
- (ii) ‘A rhetorical question [*domanda retorica, rhetorische Frage, question rhétorique, pytanie retoryczne*] is not a *true* question’.

Thirdly, it is ‘*de re true*’ that can be predicated of names [*nomi, Namen, noms, nazwy*].

Four examples:

- (i) ‘Novalis’ *true* name is ‘Georg Friedrich Philipp (*vel* Leopold) Freiherr von Hardenberg’.
- (ii) ‘Mozart’s *true* second name is not ‘Amadeus’, it is ‘Gottlieb’.<sup>20</sup>
- (iii) ‘Tarski’s *true* surname is ‘Tajtelbaum’.
- (iv) ‘All Adelasters are provisional names, to be abandoned as soon as the *true* names of the plants so called can be ascertained’.<sup>21</sup>

2.1.2.3. *Third Anomalous Phenomenon: The Truth of Names*

Paradoxically, ‘true’ can be predicated of the truth [*verità, Wahrheit, vérité, prawda*] itself. Three examples, in three different languages: English, German, Arabic. In these examples ‘true’ <or its synonym ‘very’> with the meaning of “*de re true*” is predicated of the truth itself (“very truth”, “true truth”).

2.1.3. A Paradoxical Phenomenon: The Truth of the Truth

- (i) ‘True’ is predicated of *truth* in an *English*-speaking author: Nathaniel Hawthorne. In Hawthorne appears the expression: ‘the very truth’.
- (ii) ‘True’ is predicated of *truth* [*Wahrheit*] in a *German*-speaking author: Friedrich Hölderlin. In Hölderlin appears the expression: ‘*die wahrste Wahrheit*’, ‘the truest truth’.
- (iii) ‘True’ is predicated of *truth* [*haqq*] in a *Jewish Arab*-speaking author: Ya’qūb [Abū Yūsuf Ya’qūb al-Qirqisānī. In Ya’qūb al-Qirqisānī appears the expression: ‘*haqq haqīqī*’, ‘true truth’.<sup>22</sup>

After these three documents (‘the very truth’, ‘*die wahrste Wahrheit*’, ‘*haqq haqīqī*’), in which ‘*de re true*’ is predicated of truth, here is a fourth document (Friedrich Wilhelm Nietzsche) in which of truth it is predicated not ‘true’ (‘*de re true*’) but ‘false’ [‘*falsch*’].<sup>23</sup>

“*Verloren sei uns der Tag, wo nicht ein Mal getanzt wurde!*  
*Und falsch heiÙe jede Wahrheit, bei der es nicht ein Gelächter gab!*”  
 “We should consider every day lost on which we have not danced at least once.  
 And we should call every *truth* [*Wahrheit*] *false* [*falsch*] which was not accompanied by at least one laugh!”

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20 ‘Gottlieb’ is not equivalent to ‘Amadeus’: the morpheme ‘*lieb*’ which appears in ‘*Gottlieb*’ (i) is not the homonymous morpheme which appears in the German adjective ‘*lieb*’ ‘dear’, in the German noun ‘*Liebe*’ ‘love’, in the German verb ‘*lieben*’ ‘to love’,  
 (ii) but is a morpheme etymologically akin to the Greek ‘*λείπω*’ ‘*leípō*’ ‘to leave’, to the Latin ‘*linquo*’ ‘to leave’, to the English ‘to leave’. Some variants of this second morpheme appear in the very German name ‘Detlev’, in the German arithmonyms ‘*elf*’ ‘eleven’ and ‘*zwölf*’ ‘twelve’, as well as in the English arithmonyms ‘eleven’ and ‘twelve’.  
 21 Two English botanists speak of “*true* names”: John Lindley [1799-1865] and Thomas Moore [1779-1852]. Lindley and Moore coined the English name ‘*adelaster*’ as a provisional name for a plant whose “*true* name” is unknown.  
 22 Ya’qūb [Abū Yūsuf Ya’qūb] al-Qirqisānī (Arabic-speaking Jewish author), *Kitāb al-anwār*, IV, 33, 7. Cited by Bruno Chiesa (2000, p. 173).  
 23 ‘False truth’ is a evocative *oxymoron*, just as it is an *oxymoron* the title of an American movie: ‘True Lies’.

- 2.2. De Re Truth: In the course of my research, I have distinguished two species of *de re* truth:  
 Two Species  
 (Eidological Truth, Idiologological Truth)
- (i) *eidological* truth [*verità eidologica, eidologische Wahrheit, vérité eidologique, prawda eidologiczna*];
  - (ii) *idiologological* truth [*verità idiologica, idiologische Wahrheit, vérité idiologique, prawda idiologiczna*].

To the *first* species of *de re* truth, *eidological* truth, is devoted § 2.2.1.; to the *second* species of *de re* truth, *idiologological* truth, is devoted § 2.2.2.

2.2.1. The First Species of De Re Truth: Eidological De Re Truth

- 2.2.1.1. The Concept of Eidological Truth
- In § 1.1. I have introduced the concept of *de dicto* truth. I now turn to the concept of *eidological* truth [*verità eidologica, eidologische Wahrheit, vérité eidologique, prawda eidologiczna*]. ‘*Eidologically-true*’ [‘*eidologisch-wahr*’] (unlike ‘*de dicto true*’, see § 1.) is *not* specifically predicated of *sentences*: it generically applies to any entity.  
 Definition of *eidological* truth: An entity *x* is an *eidologically-true y* if, and only if, *x* corresponds to the *eidos* [εἶδος] of *y*.

2.2.1.2 Seven Examples of Eidological Truth

- The term ‘*true*’ <or its synonym ‘*very*’> means “*eidologically-true*” in the following seven examples:
- (i) ‘A theory that cannot be falsified is not a *true* theory.’<sup>24</sup>
  - (ii) ‘A theory that cannot be contradicted is not a *true* theory.’
  - (iii) ‘Astrology (unlike astronomy) is not a *true* science (it is a *false* science).’<sup>25</sup>
  - (iv) ‘White is not a *true* colour.’
  - (v) ‘Irrational numbers are not *true* numbers.’
  - (vi) ‘Unwritten customs are *very* laws.’<sup>26</sup>
  - (vii) ‘*Nur das ist die wahrste Wahrheit, in der auch der Irrtum zur Wahrheit wird.*’<sup>27</sup>  
 ‘Only that is the *truest* truth [*die wahrste Wahrheit*], in which even error becomes truth [*Wahrheit*].’

2.2.1.3. Relationship Between Eidological Truth and De Dicto Truth (Apophantic Truth)

- I now raise a question: What is the relationship between *eidologically-true* and *de dicto true*? (What is the relationship between *eidological* truth and *de dicto* truth?)  
 I answer the question. Like *de dicto* truth, also *eidological* truth (§ 2.1.) is *correspondence, Entsprechung*.

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<sup>24</sup> Remark:

(i) ‘a *true* theory’ (“an *eidologically-true* theory”, “a real and proper theory”, “*una vera teoria*”, “*une véritable théorie*”) is not equal to

(ii) ‘a theory that is *true*’ (“a *de dicto true* theory”, “*una teoria vera*”, “*une théorie vraie*”).

In ancient Greek,

(i) the adjective for *de dicto true* is ‘ἀληθής’;

(ii) the adjective for *eidologically-true* is ‘ἀληθινός’. For example, in the *Symbolum nicaenum* the adjective which occurs (twice) in the passage in which it is predicated of Jesus Christ: “*true* God from *true* God” is ‘ἀληθινός’.

<sup>25</sup> Astrology is not a *true* science (it is a *false* science) in the sense that it does not correspond to the *eidos* [εἶδος] of a science.

<sup>26</sup> Thomas Hobbes.

<sup>27</sup> Friedrich Hölderlin.

The difference between *de dicto* truth and *eidological* truth lies in the point of reference of the correspondence relation:

- (i) *de dicto* truth is *correspondence* of a sentence [*enunciato, Satz, énoncé, zdanie*] to a state-of-affairs [*stato-di-cose, Sachverhalt, état-de-choses, stan rzeczy*]; and precisely, correspondence of a sentence to the state-of-affairs on which that sentence relates;
- (ii) *eidological* truth is *correspondence* of an entity to an *eîdos* [εἶδος]: an *x* is an *eidologically-true y* if, and only if, *x* corresponds to the *eîdos* [εἶδος] of *y*. (An example: A member of the teaching staff of a University is an *eidologically-true* university professor if, and only if, he corresponds to the *eîdos* [εἶδος] of the university professor.)

The distinction between *de dicto* truth and *eidological* truth has been introduced in Amedeo Giovanni Conte, *Deontica aristotelica* (1992), through a simple juxtaposition.

- (i) On the one hand, when one says: ‘The etymologies made by Plato in the dialogue *Cratylus* are not *true* etymologies’ one denies that those Platonic etymologies correspond to the *eîdos* [εἶδος] of etymology: one therefore denies their *eidological* truth.
- (ii) On the other hand, when one says: ‘The etymology of *étymos* [ἔτυμος] documented in Johann Baptist Hofmann is not *true*’, one denies the correspondence of that etymology to reality: one, therefore, denies its *de dicto* truth.

In both examples the adjective ‘true’ is referred to the substantive ‘etymology’. However, the adjective ‘true’ has not the same meaning in the two sentences:

- (i) in the *first* of the two examples (in the example of the etymologies made by Plato in the *Cratylus*: ‘The etymologies made by Plato in the dialogue *Cratylus* are not *true* etymologies’), ‘true’ means “*eidologically-true*” [“*eidologisch-wahr*”];
- (ii) in the *second* of the two examples (in the example of the etymology of *étymos* [ἔτυμος] mentioned by Johann Baptist Hofmann: ‘The etymology of *étymos* [ἔτυμος] documented in Johann Baptist Hofmann is not *true*’), ‘true’ means “*de dicto* true”.

## 2.2.2. The Second Species of *De Re* Truth: *Idiological De Re* Truth

### 2.2.2.1. The concept of *idiological* truth

In § 1. I have dealt with the phenomenon of *de dicto* truth. In § 2.2.1. I have dealt with the *first* species of *de re* truth: *eidological* truth. In the present § 2.2.2. I will deal with the *second* species of *de re* truth: *idiological* truth [*verità idiologica, idiologische Wahrheit, vérité idiologique, prawda idiologiczna*].<sup>28</sup>

The adjective ‘idiological’ [‘*idiologico*’, ‘*idiologisch*’, ‘*idiologique*’, ‘*idiologiczny*’] is derived from the Greek adjective ‘*idios*’ [ἴδιος] “one’s own”, “individual”, “personal”, “peculiar”.<sup>29</sup>

<sup>28</sup> The adjectival phrase corresponding to ‘*idiological* truth’ is ‘*idiologically-true*’.

<sup>29</sup> The misleading assonance of ‘*idiological*’ [‘*idiologico*’, ‘*idiologisch*’, ‘*idiologique*’, ‘*idiologiczny*’] (with ‘i’: from Greek ‘*idios*’ [ἴδιος]) with ‘*ideological*’ [‘*ideologico*’, ‘*ideologisch*’, ‘*idéologique*’, ‘*ideologiczny*’] (with ‘e’: from Greek ‘*idéa*’ [ἰδέα])



I define the concept of *idiological* truth: An entity *x* is the *idiologically-true* *z* if, and only if, it is in an identity-relation with *z*. In other terms: An entity *x* is the *idiologically-true* *z* if, and only if, ‘*x*’ (the name of *x*) has the same *Bedeutung* as ‘*z*’ (the name of ‘*z*’), that is, if, and only if, ‘*x*’ and ‘*z*’ designate (*bezeichnen*) *unum* and *idem*.<sup>30</sup>

The difference between *eidological* truth and *idiological* truth can be formulated as follows:

- (i) *eidological* truth [*eidologische Wahrheit*] is correspondence of an entity to an *eidos* [εἶδος];
- (ii) *idiological* truth [*idiologische Wahrheit*] is identity to (identity with) an *ídion* [ἴδιον], to an individual entity.

2.2.2.2. Four Examples of Idiological Truth

Here are *four* examples of idiological truth.

- (i) ‘The *true* name of Novalis is ‘Friedrich Leopold von Hardenberg’.’
- (ii) ‘Erik the Red<sup>31</sup> is the *true* discoverer of America.’
- (iii) ‘The *true* cause of Napoleone’s death was not poisoning but cancer.’
- (iv) ‘Alfred Tarski’s *true* surname is ‘Tajtelbaum’.’

2.2.2.3. Exemplifying the Difference Between *Eidological* Truth and *Idiological* Truth

What is the relationship between the two species of *de re* truth (*eidological* truth and *idiological* truth)?

*Eidological* truth [*verità eidologica, eidologische Wahrheit, verité eidologique, prawda eidologiczna*] consists in a *correspondence* relationship to an *eidos* [εἶδος]; *idiological* truth [*verità idiologica, idiologische Wahrheit, verité idiologique, prawda idiologiczna*] consists not in a relationship of correspondence, but rather in a relationship of *identity*.

I will clarify the difference between *eidological* truth and *idiological* truth by comparing the terms of the following two pairs of examples.

2.2.2.3.1. First Pair of Examples

‘Aristotle’s ‘*causa formalis*’ is not a *true* cause.’<sup>32</sup>

vs.

‘The *true* cause of Napoleone’s death was not poisoning but cancer.’

In both sentences occurs the phrase ‘*true* cause’. But the adjective ‘*true*’ does not have the same meaning in the two sentences:

- (i) in the *first* of the two sentences (‘Aristotle’s ‘*causa formalis*’ is not a *true* cause’), ‘*true*’ has an *eidological* meaning (“*eidologically-true*” [“*eidologisch-wahr*”]);
- (ii) in the *second* of the two sentences (‘The *true* cause of Napoleone’s death was not poisoning but cancer’), ‘*true*’ has an *idiological* meaning (“*idiologically-true*” [“*idiologisch-wahr*”]);

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is purely fortuitous. [The Italian translations for ‘*ídios*’ [ἴδιος] listed by Conte are: “*proprio*”, “*individuale*”, “*particolare*”. (Transaltors’ note)]

<sup>30</sup> I propose, for the identity of *Bedeutung* (in Gottlob Frege’s sense), a term parallel to ‘synonymity’ [‘*sinonimia*’, ‘*Synonymie*’, ‘*synonymie*’, ‘*synonimia*’]: the neologism ‘*synsemy*’ [‘*sinsemìa*’, ‘*Synsemie*’, ‘*synsémie*’, ‘*synsemia*’].

(i) ‘*Synonymy*’ is formed with ‘σύν’ [‘*sýn*’] and ‘ὄνυμα’ [‘*ónyma*’];

(ii) ‘*synsemy*’ is formed with ‘σύν’ [‘*sýn*’] and ‘σημαίνω’ [‘*sēmainō*’].

<sup>31</sup> The Norse form of Erik the Red’s name is Eiríkr Rauði [ca 940 – ca 1007].

<sup>32</sup> Here ‘*true*’ has an *eidological* meaning: in a strictly aitiological conception of the concept of cause (a conception in which the prototypical cause is the *causa efficiens*), the *true* causes of something are the *causa efficiens* and (perhaps) the *causa finalis*, but certainly not the *causa formalis*.

‘A surname consisting of a single letter is not a *true* surname.’<sup>33</sup>

vs.

‘Alfred Tarski’s *true* surname is ‘Tajtelbaum.’

2.2.2.3.2. *Second Pair of Examples*

In both examples occurs the phrase ‘*true* surname’. But the adjective ‘true’ does not have the same meaning in the two examples:

- (i) in the *first* of the two sentences (‘A surname consisting of only one letter is not a *true* surname.’), ‘true’ means “*eidologically-true*” meaning [“*eidologisch-wahr*”];
- (ii) in the *second* of the two sentences (‘Alfred Tarski’s *true* surname is ‘Tajtelbaum’’), ‘true’ means *idiologically-true* [*idiologisch-wahr*];

The difference between *eidological* truth (§ 2.2.1.) and *idiological* truth (§ 2.2.2.) explains why there is *no* inconsistency in the following example (concerning the history of geographical explorations):

2.2.2.4. *Testing My Differentiation of the Concepts of Eidological Truth and Idiological Truth*

‘Erik the Red [Eiríkr Rauði] is the *true* discoverer of America, but his discovery was not a *true* discovery; instead, a *true* discovery is the one made by Christopher Columbus’.

There is no inconsistency, because in this example ‘true’ (that occurs three times) has *two* meanings: in particular:

- (i) ‘true’ means “*idiologically-true*” in the *first* of the three occurrences;
- (ii) ‘true’ means “*eidologically-true*” in the *second* and the *third* occurrences.

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<sup>33</sup> That a surname consisting of a single letter is not a *true* surname is the objection raised some years ago by an American bank to a (would-be) client of Asian origin, whose surname consisted precisely of a single letter.

(i) A surname consisting of a single letter is the surname (‘X’) of a celebrated champion of the African-American’s rights: Malcom X.

(ii) It consists of a single letter the first component (‘U’) of the name of a Burmese UN Secretary: U Tant.

**3. Tres Vidi.  
Unity and Trinity  
in the Philosophy  
of the True**

- 18:1 *The LORD* [Biblia hebraica: YHWH; Septuaginta: ὁ Θεός; Vulgata: Dominus] appeared to Abraham by the oak of Mamre [...].
- 18:2 Looking up, he saw *three men* [Biblia hebraica: שְׁלוֹשָׁה אַנְשִׁים; Septuaginta: τρεῖς ἄνδρες; Vulgata: tres viri] standing near him. [...]
- 18:3 [h]e ran to greet *them*; and [...] he said: “*Sir* [Biblia hebraica: אֲדֹנָי; Septuaginta: Κύριε; Vulgata: Domine], if it please you, *do not go on past* [non passar oltre] your [il tuo] servant.
- 18:4 “*Let* [Lasciate] some water be brought, that you may *bathe* your [lavatevi] feet, and then *rest* [riposatevi] [...].”
- 18:5 “Now that you have come [voi siete passati] to your [vostro] servant [...]; and afterward you may go on [continuerete] your [vostro] way.”
- 18:9 “Where is your wife Sarah?” *they* [essi] asked him. “There in the tent,” he replied.
- 18:10 *One* of them [E l’altro] said: “I will return to you about this time next year, and Sarah will then have a son.”

Genesis<sup>34</sup>

*Tres vidi et unum adoravit.*  
Augustin of Hippo<sup>35</sup>

3.1. *Tres vidi*. Three are the phenomena that I have seen (correlatively, three are the *species* concepts [congetti di specie] that I have distinguished within the *genus* concept [concetto di genere, Gattungsbegriff]: truth):

- (i) first *species*: *de dicto* truth;
- (ii) second *species*: *eidological* truth;
- (iii) third *species*: *idiological* truth.

3.2. *Tres vidi*. But (I will say, exemplifying Augustine of Hippo, *De trinitate*, 2:4) *unum adoravi*: the concept of truth [verità, Wahrheit, vérité, prawda] in general, the concept of truth *tout court* (without any qualifications).

3.3. *Tres vidi*. But *one* is the truth. And *one* is the truth (the *de dicto* truth) of any discourse on truth (“*Veritas veritatis non est adversa*”: Peter Abelard). *One* is the truth; but *triune* is the philosophy of the truth, a philosophy that is articulated into *three* philosophies:

- (i) the philosophy of *de dicto* truth;
- (ii) the philosophy of *eidological* truth;
- (iii) the philosophy of *idiological* truth.

The Roman historian Publius Cornelius Tacitus [c. AD 57 – c. 120] writes:

*Romanorum primus Cn. Pompeius Iudaeos domuit templumque iure victoriae ingressus est; inde volgatum nulla intus deum effigie vacuam sedem et inania arcana.*

Cneius Pompeius was the first of our countrymen to subdue the Jews. Availing himself

<sup>34</sup> *Vetus Testamentum. Liber Bresith id est Genesis*, 18:1-10. (I highlighted in *italics* the alternation of the singular and the plural.) [For the English text we made reference to *The New American Bible (Revised Edition)*. (Translator’s note)]

<sup>35</sup> Augustin of Hippo [Aurelius Augustinus], *De Trinitate*, 2:4.

of the right of conquest, he entered the temple. Thus, it became commonly known that the place stood empty with no similitude of gods within, and that the shrine had nothing to reveal.<sup>36</sup>

The same holds for philosophical research. When the philosopher gets to the very heart of the problem, the heart of the problem appears empty to him, just as the shrine of the Temple of Jerusalem appeared empty to the Romans:<sup>37</sup>

- (i) empty, as *still* is the eye of the hurricane;
- (ii) empty, as *desert of images* is the blind spot on the retina;<sup>38</sup>
- (iii) empty, as *dark* is the heart of a flame.

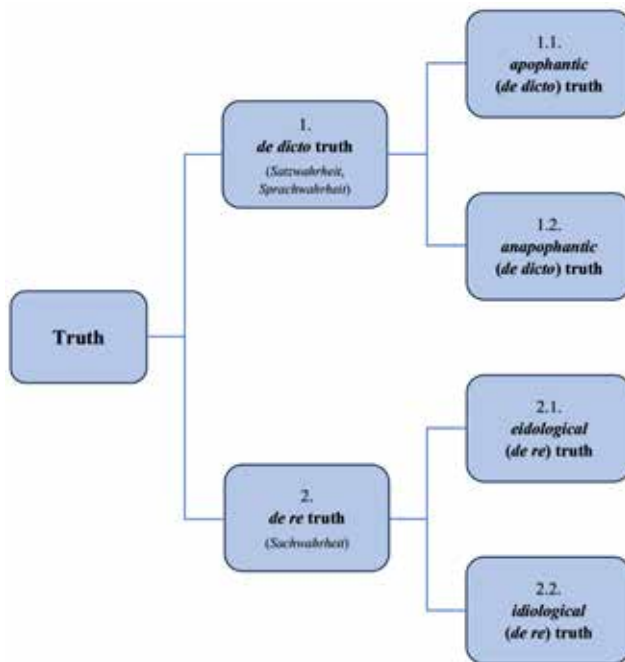


Table 1.

**Hexade of the Concepts of Truth and True.**

Hexadic typology (through three successive dichotomies)  
of the relationships between six concepts of truth [*verità, wahrheit, vérité, prawda*]

36 Publius Cornelius Tacitus, *Historiae*, 5.9. English translation in *Complete Works of Tacitus*, translated from the Latin by Alfred John Church and William Jackson Brodribb. New York: Random House, 1873, reprinted 1942. Edited for Perseus by Sara Bryant (<https://www.perseus.tufts.edu/hopper/text?doc=Perseus%3atext%3a1999.02.0080>).

37 See Flavius Josephus [in Greek: Φλαύουλος Ἰώσηπος; in Latin: Titus Flavius Iosephus; in Hebrew: Joseph ben Matityahu ha-Cohen; Jerusalem (in Hebrew: Yerushalayim; in Arab: al-Quds), 37 AD – Rome, ca 100 AD], Ἱστορία Ἰουδαϊκοῦ πολέμου. *Historía ioudaikoῦ polémou* (in Latin: *De bello iudaico*). Of the innermost part of the sanctuary [ναός naós], Flavius Josephus writes: “Ἐκεῖτο δ’ οὐδὲν ὅλως ἐν αὐτῷ, ἄβρατον καὶ ἀχραντον καὶ ἀθέατον ἐν πάσιν, ἄγιου δὲ ἄγιον ἐκαλεῖτο”. “Ékeito d’oudèn hólws en autói, ábaton kai áchranton ka athéaton en pásin, hagióu dè hágion ekaleíto”. “In this there was nothing at all. It was inaccessible, and inviolable, and not to be seen by any; and was called the *Holy of Holies*” (Flavius Josephus, 1737, book 5. Chapter 5, number 5.).

38 Five xenonyms of ‘blind spot’: ‘punto cieco’, ‘blinder Fleck’, ‘point aveugle’, ‘tache aveugle’, ‘część ślepa siatkówki’. Four xenonyms of ‘retina’: ‘retina’, ‘Netzhaut’, ‘rétine’, ‘siatkówka’. See Conte, 2006.

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# SECTION



# SECTION I

TRUTH OF LANGUAGE (*DE DICTO* TRUTH) VS. TRUTH OF THINGS (*DE RE* TRUTH)

*Roberta De Monticelli*

Ockham's Razor, or the Murder of Concreteness. A Vindication of the Unitarian Tradition

*Richard Davies*

Monadic Truth and Falsity

*Stefano Caputo*

One but not the Same

*Paolo Heritier*

True God and True Man: Some Implications

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# OCKHAM'S RAZOR, OR THE MURDER OF CONCRETENESS. A VINDICATION OF THE UNITARIAN TRADITION<sup>1</sup>

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## abstract

*The notion of de re truth (Conte, 2016) is put to work in this paper (§ 1). It introduces us to a confrontation between a metaphysics of deserty landscapes, as presented in a stunning poem by Achille Varzi and Claudio Calosi, The Tribulations of Philosophy (§ 2), and an ontology of the lifeworld, as a long-term project based on the key concept of bonds (De Monticelli, 2018). The rich and structured objects of the everyday world are infinite sources of information and cognitive adventure (§§ 3, 3.1., 3.2). Or so I will claim against Varzi's skepticism about ordinary language, common sense, and ontological realism (§ 4). Far from encouraging our minds to stick to concrete individual things, Ockham's Razor has been the murder weapon in the dismissal of concreteness and the sensible world from the intellectual horizon of Modernity (§§ 5, 6). The "Unitarian Tradition" is a half-playful denomination of a quite real, albeit ignored, alternative theory of individuality (and hence concreteness), brilliantly represented by Boethius, Duns Scotus, and Leibniz. Classic phenomenology quite independently revived it and brought it up to modern analytic standards of rigor and formality (§ 7).*

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## keywords

*unity, integrity, individuality, abstract and concrete entities*

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<sup>1</sup> Partial versions of this paper were presented at the Philosophy Department of Columbia University (2017), IAS Paris (2020), Corpus Christi College; all my gratitude to Achille Varzi, Anna Marmodoro and many of my students for insightful comments. A special thank to Achille Varzi for allowing me to quote Varzi and Calosi, 2014, also from the not yet published English translation, *The Tribulations of Philosophy - A Metaphysicall Comedye wherein 'tis told of the Errors & the Paynes of Helle*.



The distinction between *de re* and *de dicto* truth is a piece of classical, Aristotelian analysis. However, Amedeo G. Conte goes remarkably deeper into it by making it the starting point of his sparkling book on the nature of truth (Conte, 2016). Let us follow Conte's worked-out distinction. *De dicto* truth is the ordinary predicate of propositions, as we know it from Frege and Tarski. What about *de re* truth?

Not surprisingly, it is a predicate of things. It comes, Conte argues, in two kinds, exemplified by contexts such as "astrology is not a true science" or "a rhetorical question is not a true question," on the one hand. On the other hand, "the true surname of Tarski is Tajtelbaum" or (my example, entirely fictitious): "the Oxford variant is not the true *Divine Comedy*." Conte provides application conditions of either *de re* truth predicate:

(E)  $x$  is a true  $P$  IFF  $x$  corresponds to  $P$ 's *eidos*

(where  $P$  can refer to any sortal predicate: tiger, person, statue, seminar, banknote, paper, number);

(I)  $x$  is the true  $y$  IFF  $x = y$

The two conditions refer to what Conte calls "eidological" and "idiological" *de re* truth. In the rest of this paper, we shall mainly deal with the "eidological" kind, without entirely disregarding the "idiological."

**1. Structure of the Argument:  
Reversing Conte's Direction of Explanation**

Now, intuitively, the "eidological" kind of truth does not seem far from ordinary parlance: a true thing is a good token of its type. A true workshop allows for discussion, a true warrior is brave, and so on. Indeed, Conte's concept of *de re* truth provides us with a highly familiar and intuitive approach to the realm of the ideas or *eide* (to stick to the Greek and Husserlian technical term). This is why, in this paper, I shall reverse his direction of explanation: no longer from *de re* truth (*explanandum*) to *eidos* (*explanans*), but from *eidos* to *de re* truth. For everybody knows what a true table is; but few are acquainted with *eide*, and most of those familiar with the notion reject it as queer, made up, illusory – in short, a Platonistic unnecessary entity, that Ockham's razor should shave off. By this Contian detour, I hope to show that, on the contrary, a world without *eide* is not the world of *concrete* things we all inhabit, the world of true chairs and true mountains, true people and true towns, true

institutions and true books.

Of course, the notion of *de re* truth will not be just taken for granted: on the contrary, we shall go through a phenomenology of *de re* truth (Section 3). In other words, since many exemplars surround us we would call true things, we shall have a chance to verify conceptual description with fresh intuition and flesh out the more exoteric notion of *eidos* with original presence, as phenomenology requires. By putting *de re* truth to work, we shall kill two birds with one stone: we shall start from the things themselves, not to explain *eide* away, but to go deeper into their nature of *unitary foundations* (Husserl, 1900-1901). That is, bonds on possible (co) variations of a thing's features, by breaking which that thing is disfigured, or dis-integrated, or deformed: in short, it ceases to be a good token of its type. (De Monticelli, 2018). At worst, it loses its specific identity, whatness, or nature: it ceases to be what it was.

To sum up, if Conte is correct, and there are no true things without *eide*, shaving off *eide* from one's ontology is murdering concreteness. Far from shaving off abstract entities, an Ockhamist metaphysics wipes away true reality, the concrete things of our life world.

Very deep metaphysical problems have a strange fate: the fundamentals of a classic debate remain unchanged in time, no matter how wildly the cultural context and the state of scientific and practical knowledge differ. This is undoubtedly the case with the Nominalism-Realism Debate. By "Ockhamist metaphysics" I refer, in fact, to some contemporary varieties of Post-Quinean Nominalism.

I shall largely ignore the differences between sorts of Nominalism, such as "austere" Nominalism (Devitt, 1980), "resemblance" Nominalism (Pereira, 2002), tropes Nominalism (Campbell, 1981), and "mereological" Nominalism (Lewis, 1991). These are denominations for different strategies Nominalists adopt to give their accounts of generality (or the apparent common properties of things) once they have given up "abstract" entities.

Let us call "Brother Ockham" my proxy for any of these variants. However, my Brother Ockham does not claim to be the historical Ockham. It is, rather, an ideal Ockham, enacting an intellectual attitude that brings to its extreme ontological consequences a highly widespread scientific naturalism. Achille Varzi has brilliantly expounded this attitude in a treaty on mereology (Cotnoir & Varzi, 2021), informal books and lectures (Varzi, 1999; 2010; 2015), and a most remarkable poem (coauthored by Claudio Calosi) written in Dante's Tercets: *Le tribolazioni del filosofare. Comedia metaphysica ne la quale si tratta de li errori e de le pane de l'Infero* (Varzi & Calosi, 2014, p. 246). This poem is Brother Ockham's most vivid and vibrant legacy: it will provide the point of departure for our discussion.

Let us recall a modern version of the principle of ontological parsimony through a very popular quotation from Quine: "Wyman's overpopulated universe is in many ways unlovely. It offends the aesthetic sense of us who have a taste for desert landscapes" (Quine, 1948/1953, p. 4).

My opponent to this most famous dictum by Brother Ockham is no Platonist but a representative of what I called "the Unitarian Tradition."<sup>1</sup> Not surprisingly, he turns out to be a classical phenomenologist. Provided by "phenomenology" one does not mean a theory of consciousness, but essentially an ontology of the everyday world, as *given* to consciousness and experience. The motto opposing Quine's taste for desertic landscape is borrowed from Moritz Geiger, a phenomenologist who wrote admirable pages on the aesthetics of landscapes, by the way: "In order to show what is given, one should have rather emphasized the sentence that

## 2. Who is the Murderer? Variations on Desert Landscapes

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1 This notion is introduced in De Monticelli (2013).

*'entia praeter necessitatem non esse diminuenda'* (Geiger, 1996, p. 99).<sup>2</sup>

Varzi's poetical variation of Quine's metaphor appears in the final Canto of his poem, where the Poet and his Guide, Socrates, approach the light of truth and its desert, out of the hell of philosophical illusions and delusions:

E oltre quel confin, oh, qual intorno!  
Com' empie li occhi e il cuor la meraviglia!

Qui lucono le stelle in pieno giorno,  
l'amorevol natura de le cose  
deposita la polva tutt' attorno

e piano, in ampie foglie e silenziose.  
Sotto le povertà d'un solo fiato  
nascondonsi abbondanze polverose.

È tutto quiete e soffio dislungato,  
una semplicità fatta purezza.  
*È il fine, è il deserto illuminato.*<sup>3</sup>

In the hell whose exit opens out that luminous desert, the place of us phenomenologists and our illusions is very well delimited: we occupy the Second Circle, with its three Rings of the Simpletons, who share the illusions of Common sense:

Ring I. Faithful to the senses;  
Ring II. Faithful to language;  
Ring III. Faithful to pliant myths.

The most sinful among us, though, lie further down in the five Rings of the Third Circle, that of the Lustful Realists, who foolishly believe:

Ring I. In universals  
Ring II. In abstract entities  
Ring III. In the levels of reality  
Ring IV. In the robust structure  
Ring V. In values.

Are phenomenologists at home in these two Circles? Quite so, I suggest, except for the different description we shall provide of our alleged belief in universal and abstract entities. The origin of (what I call) the Unitarian Tradition should not be looked for in a remote past,

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<sup>2</sup> Geiger, a former student of Alexander Pfänder, was a very refined phenomenologist of the emotions and one of the founders of phenomenological aesthetics.

<sup>3</sup> Varzi and Calosi (2014, p. 246). "And pass'd beyond the verge, oh, what a land! /Oh, what a wonder fill'th my eyes and heart!/Here shine the skyey stars in full daylight;/the loving-hearted character of things/allwhither, wide and far, layeth the dust,/and slow and in silential leaves enlarged./Beneath the povertyes of one sole breath/pulverulous abundances behyde./Aywhere is quietude, a longsome breeze,/simplicity into purity becom'd./The end is this - the desert luminous."

plunged in a mist of archaic religion and myth. It is *here and now*. It is the source of novel information flowing from whatever is now present to our senses. This tradition's motto was put in words pretty late, but it has probably implicitly inspired its champions all along: "Back to the things themselves." It voices a principle of priority of data over constructions, that phenomenologists – the latest upholders of the tradition – share with empiricists. Yet Empiricism, according to Phenomenology, fails to be true to the given, which is why confrontation with Nominalism first and Empiricism later is so crucial to this tradition. This much for the Second Circle, that of us Simpletons, whose refined analyses address the ways in which the solid world of the natural attitude is given to experience and common parlance, surely not to question its reality but to enlighten its phenomenological content. What about the Third Circle? Phenomenologists are indeed lustful realists as well. Brother Ockham suggests that ordinary language and common sense might be in the grip of ordinary hallucinations (Varzi, 2010). So he blames us: you believe in universal, abstract entities, in a multi-layered reality emerging from the physical to the social and personal, each level with an irreducible ontological novelty – you believe in even in values! But what are all these creatures? Where do we put them in our world of facts? Normative entities or properties, holding pluralities together or requiring perfection, are too queer for our modern tastes. They are quite embarrassing things: they recall to our minds that ghostly *realism of universals* that modern thought seemed to have definitely thrown out of the civilized paths of rational thought. What should we do with these hybrid monsters? These *universalia in rebus* are midway between the *universalia ante rem* (of a Platonist scholasticism) and the sheer *conceptus mentis*, concepts of the mind, or even *flatus vocis*, i.e., linguistic meanings (as Nominalism has them). Indeed, these queer creatures look like mental things, constructs or concepts instead of real, concrete things. What sort of realism can be one not about concrete things? Won't it be realism about ghosts? Are we not proposing to return to Simplicius (the ridiculous scholastic metaphysician in Galileo's *Dialogue Concerning the Two Chief World Systems*)? Won't there be a theological presupposition, or maybe a magic illusion, at the heart of a theory of *eide*? These doubts are compelling. It is a matter of intellectual honesty. They *cannot* be put aside. More precisely, if we keep within the frame of current ontology, they cannot. By "current ontology," I mean the one adopted even by modern anti-nominalists or realists: the frame of discussion almost universally accepted in the Latin of our days. Inherited from Ockham through British Empiricism, it finally comes down to Quine or Lewis, with all its tacitly and universally accepted presuppositions. Many questions are still disputed within this frame. But the frame itself is not. Let us call it the Standard Ontological Partition, defining Concrete and Abstract Entities. Within this frame, Essences and Values necessarily end up on the right side of the Partition, which is the "abstract" side. In fact, the wrong side. Here is this familiar frame:

The Standard Ontological Partition

<i>Ens individuum</i>	<i>Ens commune</i>
Concrete Objects	Abstract Objects
Individuals – Non-instantiable – Tokens	Universals – Instantiable – Types
Obviously among what there is (also <i>extra mente</i> )	Not obviously among what there is (also <i>extra mente</i> )
Paradigm-objects: Material particulars (substances, tropes)	Paradigm-objects: properties, relations, numbers, sets
Having all their properties-relations contingently (Parts, Classes in Extensional Mereology)	Having necessary properties and relations (Sets, mathematical objects)

Once the Standard Ontological Partition is accepted, there is no escape for such lustful realists as we phenomenologists. We are damned to the errors and the pains of Brother Ockham's metaphysical hell. Unless we discover something wrong with the Partition itself.

### 3. The Dispute on the Universals and the De Re Truth Approach

Let us recap. Nominalism (both classic and post-Quinean) presents itself as a metaphysics of concreteness. Ockham's razor is put to the service of a robust sense of concrete reality, shaving away abstract entities from the domain of what there is. Lustful realists have their backs to the wall unless they discover a fresh approach to the whole dispute on the universals. The *de re* truth approach is exactly what we need. Its advantage is to change our perspective on the dispute. We no longer focus on universals, wondering whether, by chance, they *also* exist outside the mind or not. We focus now on the things themselves, the things surrounding us, that we would call true chairs, true tables, a true workshop, a true speaker, a true audience. What do we mean by "a true P"? As suggested above, I shall at least temporarily leave aside Conte's suggestion concerning eidological *de re* truth:

(E)  $x$  is a true P IFF  $x$  corresponds to P's *eidōs*

Instead, we shall try a phenomenological analysis of an object that might work as a paradigm of what we would call "a true P." By considering variants of it, we should reach a general criterion of application for a *de re* truth predicate.

#### 3.1. Phenomenology of De Re Truth

In front of the Philosophy Department at Columbia University, we can admire a bronze statue, a nude male figure of heroic size sitting on a rock. Its pose is one of deep thought and contemplation, leaning over, his right elbow placed on his left thigh, holding the weight of his chin on the back of his right hand. It may strike you as a familiar image – you may wonder where you have seen something similar. Suddenly it crosses your mind: *The Thinker*! It is a very iconic sculpture indeed. You may have seen it in Paris. Of course, it is August Rodin's most famous sculpture. Now you start wondering: is it a true Rodin?

It certainly is. A quick look at the web informs us that *The Thinker* was originally designed in 1880-82 as the central figure at the top of his monumental set of doors, *The Gates of Hell* (so, it was originally *The Poet*, representing Dante). The first life-sized versions of *The Thinker* were cast in 1903. After Rodin's death in 1917, his studio continued to produce bronze casts in his name using the sculptor's original models. Columbia's replica of *The Thinker* was commissioned in 1930 by then-President Nicholas Murray Butler from the Musée Rodin, and it was cast in bronze by Alexis Rudier, Rodin's preferred foundry.

Is *The Thinker* of Columbia University this same Rudier's cast? If so, this statue satisfies Conte's condition for *idiological de re* truth. The causal chain leading back to the sculptor's original model grants authenticity. However, "a true Rodin" means more to us than the traceability of this token sculpture up to its origin. It means a recognizable aesthetic pattern, expressive of Rodin's unique style. A true Rodin has to "correspond" to what Husserl would have called an "eidetic singularity": the concerned *de re* truth, in Conte's terms, is also an *eidological* truth.

Both conditions are necessary and only jointly sufficient for artistic authorship, for a style can be counterfeited, and a causal chain need not lead back to an artwork.

To acquire a more definite notion of an individual aesthetic pattern or style, art critics invite us to compare a given artwork with other ones by the same author and with works by different authors that seem to exemplify the aesthetic qualities of the original differently. Let us provide some examples. Consider the all-pervading expressive quality, making up the unique individual physiognomy of *The Thinker*: this blend of majesty, struggle, tension, and concentration. By exploring the web, we can easily discover how the aesthetic pattern changes

with small changes in any of these qualities. Compare *The Thinker* with Michelangelo's *Il penseroso*, adorning Lorenzo de' Medici's tomb in San Lorenzo, Florence. Then compare it with Michelangelo's *Atlas Slave*, one of the 'Prisoners,' the series of unfinished sculptures for the tomb of Pope Julius II, now held in the Galleria dell'Accademia in Florence.

In phenomenological terms, this is an exercise of eidetic variation upon a given aesthetic value made up of the expressive qualities we mentioned. Interestingly enough, expressive qualities, especially if bound to a classic iconography, can even resist variations of means and technique: consider Michelangelo's self-portrait as the prophet Jeremiah, on the ceiling of the Sistine Chapel, or again, the portrait of Michelangelo as Heraclitus in Raphael's *School of Athens*. In this second exercise, we become aware of all the differences between three-dimensional sculptural and two-dimensional pictorial space, with the different opportunities and challenges they offer to expression and creation. This way, we jump to *de re* truths of higher generality: we learn what a true *sculpture* is, how it differs, for example, from a *trompe-l'oeil* or a true *painting*.

These few hints at a phenomenology of *de re* truth may suffice to outline an answer to the question: what do we mean by a "true" P in general (where "P" ranges over sortal predicates whatsoever)? We would thereby keep the promise of not taking the notion of *de re* truth for granted (Sect. 1). However, the issue is concreteness (and its two competing ontologies, Brother Ockham's and the lustful realists'). So, we shall limit ourselves to P ranging over ordinary middle-sized dry objects of the everyday world.

Something is a true P if and only if it has:

- a) Richness of matters (contents, "moments")
- b) Structure (unity, integrity, or coherence of contents or "moments").

In other words, to deserve being called a "true" P, something needs to satisfy two correlative conditions: showing both a plurality of matters (contents), by which a thing is an infinite source of (always new) information, and integrity, or coherence, or unity of these matters or contents, by which each one appears as "part" of the thing as a whole, holding somehow together with other parts or contents.

*This* statue, for example, must have stuff, shape, dimensions, aesthetic qualities, and an artifactual origin; its unity or integrity is how all these matters hold together in one token of its type, e.g. *The Thinker*. Its type – the model – admits of (co)variations in all its "moments," as exemplified by different versions of *The Thinker* (in plaster, in smaller dimensions, etc.). Let us climb two more degrees of generalization. A true Rodin preserves its *de re* truth (its specific identity) through much wider variations of its "moments," as in *Adam* (Musée Rodin Paris) or *The Kiss* (Musée Rodin Paris). A true sculpture preserves it through wider and wider variations (e.g., by missing "naturalistic" features, as from Rodin to Henry Moore). However, not *all* arbitrary variations would yield a true sculpture. No sculpture could be constituted of liquid stuff or scattered sand.

By putting *de re* truth to work, I promised, we would have killed two birds with one stone. The first bird was Brother Ockham's blame on *eide* as a version of *universalia in rebus*, those strange creatures midway between mental constructs and real things. Instead of defining *de re truth* as the correspondence of a thing to an *eidos*, we displayed some phenomenological criteria for things to be called true – true sculptures (houses, chairs): they must enjoy richness and structure of matters (contents). No concrete thing in the surrounding world lacks such plurality and integrity (this is a challenge for the reader to produce a counterexample). Here comes the second bird: *eide* revisited, or defined in turn, in terms of *de re* truth. *Eide* are

3.2. *Eide* revisited

unitary foundations in the sense of Husserl's Third Logical Investigation (§21).<sup>4</sup> The previous phenomenological analysis by variation should have given the reader an intuitive grasp of this concept. Unitary foundations are bonds on possible (co)variations of a thing's features, by breaking which that thing is disintegrated: in short, it ceases to be a good token of its type, a "true" exemplar of its kind. (For a less informal take on unitary foundations and *eide* see references in the previous footnote).

**4. The Scene  
of The Crime  
Unveiled: A  
Metaphysical  
Crossroads**

In the following sections, I shall argue that Brother Ockham's razor does not shave off abstract entities but cuts bonds of unity, thereby killing concreteness (here is his perfect crime). The concept of bonds of unity provides the rationale for vindicating what I call the Unitarian Tradition, whose legacy, I submit, is revived by phenomenologists and/or lustful realists. Our phenomenology of *de re* truth has shown that we take a "true" token of its type to have a plurality of aspects whose unity is *in re* – and not only in our thought, like arbitrarily formed sets or sums. *De re* truth sorts out those beings that cannot have numerical unity without having a "less than numerical unity" – to quote Duns Scotus<sup>5</sup>: a constraint on partial changes, a law on possible alterations – one is tempted to say: an inner destiny. There are as many ways to hint at this unity of foundation<sup>6</sup> distinguishing *true beings* from fictitious or imaginary ones as there are representatives of the Unitarian Tradition. Plato's term is *synechein*, literally *holding together*. The "soul" of the world "holds it together" (*synechein* was translated by the Latin *contineo*) – in such a way that the world is "contained" by its soul, and not viceversa<sup>7</sup>. In Boethius's last work, the *Consolation of Philosophy*, Lady Philosophy will utter the most general and fundamental unitarian claim about being: whatever *is* there, keeps on *being* as far and as long as it *is one* (Boethius, 2009, p. 40).<sup>8</sup> Aquinas generalizes the idea with its usual terseness: God is "in" all things by "containing" them all.<sup>9</sup> Leibniz will go to the heart of this enological ontology: "Ce qui n'est pas véritablement un être n'est pas non plus véritablement un être" (Leibniz, 1988, p. 165). A claim Leibniz develops into a distinction of degrees of unity/existence, that is of integrity, or ontological perfection. It is not just speculative philosophy. For one thing, degrees of existence are popular in social ontology. Which degree of existence does the European Union possess?<sup>10</sup> That it does *not* exist is false;

4 The concept of a *pregnant* whole is defined there through that of unitary foundation, as a structure of contents bound by constraints on their possible covariations, constraints "rooted in the nature" of those contents themselves. Cf. De Monticelli (2014; 2018; 2020; forthcoming).

5 "minus quam numerica unitas", cf. Duns Scotus (1973, *passim*, pp. 391-410). This unusual expression denotes the unity of a nature. It is not a numerical unity, otherwise the nature of a thing would have a separate existence, like each one of the chairs sharing this nature, "chairhood." But the many chairs are instances of "one and the same" prototype, "holding together" all the relevant features of a chair.

6 A fateful if stupid mistake in the English Translation may have compromised the correct understanding of this crucial passage, where *Einheitliche Fundierung* is translated into English as a *single foundation*, and *die Einheitlichkeit der Fundierung* as the *singleness of the foundation*. Husserl (1970, p. 35). So, a better translation would be: "We understand by whole an aggregate of contents comprised by a unitary foundation, without any appeal to further contents. Talk of the *unity of the foundation* implies that *every content is foundationally connected, whether directly or indirectly, with every content*" (italized by Husserl).

7 Plato, *Timaeus*, 34b.

8 A variation on this claim makes it feel even more vividly the existential sense of a statement that Boethius meditates before his death. "Everything remains existent so long as it keeps its unity, but perishes in dissolution as long as it loses it", *ibid.* For the Neo-Platonic origins see Proclus (1963), proposition 13 in *Supplement*, p. 106; and *Supplement*, p. 92, [point 5](#). The scholastic formula sums up: *ens et unum convertuntur*.

9 Aquinas, *Summa Theologiae*, I Primae, Q. VIII, Art. 1 ad 2: "licet corporalia dicantur esse in aliquo sicut continente, spiritualia autem continent ea in quibus sunt, sicut anima continet corpus. Unde et deus est in rebus sicut continens res".

10 For a nice development of the concept of degree of existence see De Vecchi (2016).

that it meets *all* the identity conditions of a State, and enjoys its causal power, is also false. We can point out the one concern expressed by all these authors: the difference between physical *parthood* and *containment*, mereological sums and integral wholes, pieces and moments. All these philosophers crave, as it were, a formal theory of unity – as the one Husserl provided with his notion of unitary foundation in his Third Logical Investigation. Their concern is concreteness, not abstract entities: they all see it as *integrity*.

The murder of concreteness is a type of crime eternally happening at the center of the metaphysical cities. The crime’s scene is a crossroad, worn and torn by generations of masters and students crossing it again and again over many centuries. There are tokens of it in ancient Athens, Rome, Paris, Oxford... and New York (the Murderer appears to be a serial killer). Elsewhere,<sup>11</sup> I traced the idealized story of a fateful sequence of intellectual moves, each performed at a metaphysical crossroad by cutting a bond of unity and pulverizing things into sums of atomic last parts (Varzi’s “pulverulous abundances”). The crossroads display the alternative ways out of what came to be called the dispute on the universals, but this very title was imposed on it by its winners, Ockham’s heirs and modern Empiricism. The issue was not the nature of universals, but that of individuals. It is not by chance that its culminating point, the dispute between Duns Scotus and William of Ockham, is resumed by the two branches of Scotus’ Crossroads, maybe the most celebrated treatise *On the Principle of Individuation* in the entire history of philosophy.<sup>12</sup>

Not surprisingly, the Unitarian Tradition hosts the great metaphysicians of *intrinsic* individuality, or *haecceity*: Boethius, Scotus, Leibniz, Husserl, and Scheler.

The very core of concreteness is individuality. Who would not grant this? But what happened attests to the power philosophy may have on words. It happened that the view which ended up prevailing took over and *shaped the language of individuality* in such a way as to make the alternative view ineffable and inconceivable. More yet, it made the essence of individuals invisible, so it was lost as an intellectual and moral thought object. In this very sense, the murder of concreteness was, in fact, that of individuality – or at least its “moral” killing: its ban from the domain of meaningful discourse. Or such is my claim.

To sum up: the core of the dispute on universals turns out to be a dispute on the nature of the individuals. This was crystal clear around the Twenties of 1300, when Scotus wrote his treaty *On the Principle of Individuation*. However, without reproducing the detailed analyses of that treaty provided elsewhere,<sup>13</sup> I shall present a simplified and updated version of the dispute, in terms of what we learned about *de re* truth.

The only question of this simplified version in Contian terms would be:

(Q) Is there any *de re* truth?

Recall Conte’s condition of eidological *de re* truth:

(E) *x* is a true *P* IFF *x* corresponds to *P*’s *eidōs*

Given our explanation of *eide* in terms of unitary foundations as bonds of integrity, by violating which things lose *their specific identity*, (Q) can easily be rephrased in modal terms:

## 5. A Simplified Version of the Dispute on Individuals

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11 De Monticelli (2020-21).

12 Duns Scotus (1973; 1994).

13 De Monticelli (2004; 2020-21).



(MQ) Do any individuals have *de re* necessary properties?

We can easily figure out the crossroads this question originates.

Brother Ockham's answer would be: NO. And, of course, the Unitarians', the lustful realists', the phenomenologists' answer would be: YES.

Let us have a comprehensive look at the rationale of each answer. Both Brother Ockham and the Unitarian take individuality to be the core of concreteness. However, for the Unitarian, individuals are integral wholes (*non-dividua*). They are rich and structured creatures whose contents hold together in lawful ways, for example, patterns of unfolding in space and time, that are, of course, *de re* necessary properties, since things would lose their specific identity without them. Individuals have a unitary foundation. Let us paraphrase in Leibnizian terms: they enjoy monadicity.

For Brother Ockham, on the contrary, individuals are stardust: mereological sums (or parts of them); by definition, they lack any bonds of unity, hence any specific identity. Their properties can be necessary only *de dicto*, depending on the description we arbitrarily chose for them. That Socrates is described as a featherless biped or a rational creature is up to us, and each description will imply a different set of *de dicto* necessary properties. In themselves, individuals are bare particulars: their ultimate feature is atomicity. No description is grounded *in re*, all are subjective or conventional, just linguistic and social constructions.

As usual in metaphysical disputes, part of the issue is arbitrarily decided by choosing what you *want to call* an individual. Since the word is likely to be applied to both sorts of creatures in this large world, we shall not take any such decision. We shall take sides with the Unitarian by claiming that *some* individuals enjoy *de re* properties – in short, *there are de re* truths.

However, to complete our simplified version of the dispute, we have to take a closer look at the individuation principles of the disputers.

Unitary foundation is the Unitarians' Individuation Principle. It defines a power of integrating the circumstances of existence of the individual in the unity of a whole, be it endogenic, as in living creatures or persons, be it exogenous, as in artifacts or non-animated things.

Such a power operates whenever a type individuality unfolds, as in *The Thinker* at Columbia University. This sculpture's individuality is not only defined by its space-temporal location, but also by the unique physiognomy of its model. It is an individual unitary foundation of moments, for which the scotistic term *haecceity* is most suitable.

I must insist on this crucial discovery nourishing the Unitarian tradition: what Unitarians call *essences* or *natures*, and Husserl calls *eide*, are global structures first intuitively given in actual encounters with individuals. Individual identity (*haecceity*) and specific identity (*nature*) are inseparable (no nature can be anywhere else than in actual individuals).<sup>14</sup> Natures are discovered, not invented. They can be conceptualized, but are conceptually inexhaustible. However, they do not fit in the ontological frame of the Standard Partition. Nothing possibly being “only in the mind” is a given source of information, let alone an infinite source, as what is worth the name of real. Notice that type individuality is quite irreducible to tokens'. Melodies, plastic models like *The Thinker*, literary works like poems or novels, and even

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<sup>14</sup> By the way, this “inseparability,” described by Husserl as defining “und detachable” parts, or moments, corresponds to Scotus' “formal distinction”: neither a *real distinction*, like two numerically different objects, nor a *distintio rationis*, an only conceptual distinction. “*Inseparability*” appears in the title of Ideas I, §2. *Matter of Fact. Inseparability of Matter of Fact and Essence* (Husserl, 1984, p. 7).

simple letter-types are individual essences. They have both individuality and instantiability. The Standard Partition, where individuality and instantiability are disjointed, cannot fit this datum.<sup>15</sup> We do possess a notion of individuality – and, “founding” or fulfilling it, an experience of individuals, as recognizing visages and melodies – that is not captured by the opposition particular/universal.

This is why several phenomenologists independently rediscovered Avicenna’s dictum on essences, neither particulars nor universals.<sup>16</sup> Two interesting examples are Max Scheler on personal individuality<sup>17</sup> and Roman Ingarden on the “super-individuality” of musical works (1973, last chapter, *passim*).

Brother Ockham’s Individuation Principle is bare existence in space-time, or situation. Individuality comes with existence. It is a primitive notion. Whatever exists is individual just by being there (individuated by circumstances of existence). In William of Ockham’s terms, opposing Scotus, individuality has *no* “positive and intrinsic” nature.<sup>18</sup> It just boils down to non-instantiability. As you can easily verify, the Standard Ontological Partition is built on this opposition between instantiable and non-instantiable entities, universals and individuals.<sup>19</sup> This is not surprising, since the British Empiricist – Locke,<sup>20</sup> Berkley,<sup>21</sup> Hume<sup>22</sup> – followed Ockham’s branch of the crossroads, and so did most metaphysicians, in the XXth century: Peter Strawson,<sup>23</sup> Nelson Goodman,<sup>24</sup> Jorge J.E. Gracia,<sup>25</sup> Peter van Inwagen<sup>26</sup> (not to mention Quine, Lewis, or Varzi).

Where exactly does Ockham’s razor slash its mortal wound?

In classical terms, it shaves off “natures” from individuals. But of course, in the ontological frame of the Standard Partition, this move only wipes out would-be entities, chimeras

## 6. Anatomy of a Crime

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15 For a more detailed argument in support of this claim see De Monticelli (2008; 2014).

16 “Animal in itself is a certain thing and the same whether it is an object of sense or understood in the soul. In itself, however, it is neither universal nor singular. For if it were in itself universal in such a way that animality as such (*ex hoc quod est animalitas*) were universal, then it would necessarily be the case that no animal is singular, but rather every animal would be universal”. *Logica tertia pars* (Avicenna, 1508, f. 12ra), cit. in. Noon (2006, p. 103).

17 “Essence, as we mentioned earlier, has nothing to do with *universality*. An essence of an intuitive nature is the foundation of both general concepts and intentions directed to *particulars*. It is only when we refer an essence to an object of observation (“the essence of something”) and inductive experience that the intention through which this reference occurs becomes something that pertains to either a universal or a particular. Therefore there are essences that are given only in one particular individual. And for this very reason it makes good sense to speak of an individual essence and also the individual value-essence of a person”. Scheler (1973, p. 489).

18 “Every singular thing is singular by itself. I argue this as follows: singularity immediately pertains to what it belongs to. Therefore, it cannot pertain to it through anything else.” Ockham, Question 6, 105, in Spade (1994, p. 171).

19 Even modern haecceitism, featuring in the context of XX Century modal logic, has *not* revived Scotistic individual essences, but on the contrary Ockhamist bare particulars. “A thisness is the property of being identical with a certain particular individual – not the property that we all share, of being identical with some individual or other, but my property of being identical with me, your property of being identical with you, etc. These properties have recently been called ‘essences’, but that is historically unfortunate; for essences have normally been understood to be constituted by qualitative properties, and we are entertaining the possibility of *nonqualitative thisnesses*” (Adams, 1979, p. 6).

20 “All things, that exist, being Particulars [...]” (Locke, 1975, III.xxvii.3, p. 409).

21 “But it is an universally received maxim, that *every thing which exist, is particular*” (Berkeley, 1948, 2, p 192).

22 “‘tis a principle generally receiv’d in philosophy, that every thing in nature is individual” (Hume, 1739/1958, I.i.7, p. 19).

23 “For instance, in mine, as in most familiar philosophical uses, historical occurrences, material objects, people and their shadows are all particulars; whereas qualities and properties, number and species are not” (Strawson, 1963, p. 2).

24 “An individual may be divisible into any number of parts: for individuality does not depend on indivisibility. Nor does it depend on homogeneity, continuity, compactness, or regularity” (Goodman, 1972, p. 158).

25 “Non – instantiability as the only criterium of individuality” (Gracia, 1983, p. 45; see also Gracia, 1988).

26 “In my view, there are only particulars and universals, and all particulars are substances: substances are the only representatives of the category “particular thing” (or individual)” (Van Inwagen, 1995, opening page).

or ghosts. There is nothing to blame for it. Not surprisingly, since the Partition itself was originated by that slash. Through it, “natures” become nothing else than “representations in the mind” or “concepts”.

So, what is wrong with that? My answer will run in two inseparable steps: the phenomenological and the ontological.

Much is wrong from a phenomenological point of view.

Sensible reality as an infinite source of structured information is hidden from our ontological sight. The infinite but not indefinite, not arbitrary, not imaginary flux of the experienceable is truncated as a source of *de re* knowledge. The *cognitive* adventures of perception, emotional sensibility, and personal acquaintance are removed from our intellectual horizon. The everyday world, so crowded with value-laden individual facts, is lost for philosophy, maybe left over to sophistry and rhetoric, hardly interested in *de re* truths.

To see all this, let us return in front of Rodin's sculpture at Columbia University. I consider the very *whatness* of this bronze statue, as I imagine different shapes this stuff could have taken. I also consider the circumstances of *this* statue, its situation in the middle of the campus, the snow covering it right now, the visual aspect of the bronze shining under the snow. There is absolutely nothing arbitrary in this eidetic exploration of given contents of the sculpture. I learn a lot about possible structures, proportions, meanings, and aesthetic values, and I would learn more if I had received more learning in sculptural crafts. You cannot really cut away the essential nature of the given thing without doing away with the definite and infinite source of information it is as a true sculpture. On the other hand, I could not learn more unless I kept some exemplar of the thing before me, refreshing my grasp on all these contents by perception. Ockham razor cuts this relation, letting *The Thinker* there in its bare numerical unity, deprived of all its “less than numerical unity,” that is of any contents and constraints on possible arbitrary variations. Once this relation is broken, the razor incongruously sticks “into my head” all the flowing information the statue contained and presented to me. But no source of information can reside “in my mind.” Or I would be omniscient.

Let us move on to the ontological step of my argument.

Ockham's slash cuts off one of the two complementary intuitions of an individual we have.

For we do associate two distinct but *inseparable* intuitions to the notion of a *concrete* individual. (Differently from Peter Strawson (see above), we simpletons would not ascribe individuality to a person's shade in the sun or its reflection on water).

One intuition is that of a concrete individual's (relative) ontological independence, the one to take care of which Aristotle had introduced the notion of substance and the distinction between substance and accidents. Something can exist “in itself” or “in” (as a part of) something else. Aristotle would say, as a substance or as an accident.<sup>27</sup> The other intuition involved is that of situation, i.e. what, quite independently of its properties, mostly shared by other individuals, allows an individual to be distinguished from any other one. The situation (from *situs*, site) makes an individual a “*tode ti*,” which is something ostensively or indexically given: this one, here. Ockham's move is way less innocent than we used to think: it cuts off one of the two complementary intuitions of an individual we have. It exclusively keeps to the other one, adopting as the only criterion of individuality the property of being a *tode ti*: having a position in space time. Non-instantiability becomes the defining character of this “ineffable” or non “communicable” being (*individuum ineffabile, incommunicabile*).

However, to take care of our twofold intuition we do not need to stick to the category of substance, with all its heavy metaphysical implications, that we will not address here. The

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<sup>27</sup> Aristotle, *Categories*, Ia 20.

crucial feature we do associate to “concrete” individuals is, as we saw, integrity, i.e., richness of contents, and structure that holds them together lawfully, not arbitrarily (concrete individuals are no “bunches” of qualities). Because of this “integrity,” a thing does not need another for (ontological) completion: it is self-contained. It is a whole, not a part of something else. So, Unitarians can do better than Aristotle. A suggestion is provided by Husserl, in that almost introductory § 2 of *Ideas I*, already mentioned above:

An individual object is not merely an individual object as such, a “This here,” an object never repeatable; as qualified “in itself” thus and so, it has its own specific character, its stock of essential predicables which must belong to it (as “an existent such as it is in itself) if other, secondary, relative determinations can belong to it (Husserl, 1984, p. 7).<sup>28</sup>

As we know from Conte, the “stock of essential predicables which must belong to it” make up the truth of a true thing. Concrete individuals are things enjoying de re truth (the inverse implication may not be true).

In conclusion, I shall take the liberty of reproducing an outline of an ontological frame of language, alternative to the Standard Ontological Partition, which I found helpful in representing the Unitarian take on what there is. To make its rationale as intuitively clear as simpletons and lustful realists can afford, I shall also take over, with a few variations, a kind of sermon concerning the life world, whose essential contents may have appeared elsewhere.<sup>29</sup> In Brother Ockham’s ontological perspective, science (essentially, physics) is the only wisdom entitled to tell us what there is. Accordingly, our everyday world displays no “laws of essence”. There is no power to integrate given circumstances into a personal life’s unity. Nothing needs to be done to fulfil a personal calling, such as that of a pianist or a poet. There is nothing good or bad in itself, either; for in a world of facts, there is no place for essential properties or relations, for values, or for objective value-relations. It is a light world, resembling that of Ovid’s *Metamorphoses*, where anything might become anything else. Some contemporary poets, such as, for example, Italo Calvino or Milan Kundera, found that lightness congenial.<sup>30</sup> Unitarians think science only tells us what *else* there is, over and beyond the undisputable reality of our everyday world. Accordingly, nothing escapes that gift of intrinsic constraints that a true P (a mountain, a piece of music, a human being, a human civilization) has to meet: to keep in life or become a better exemplar of what it is. Concreteness is far from expelling the dimensions of ideals and norms – aesthetical, practical, ethical, legal, political. Our ontological table is two-dimensional because it distinguishes the logical dimension of universality/singularity from the ontological dimension of true things: their wholeness, moments, ontological dependences or foundations.

**7. Reproposing a Sermon and the Two-Dimensional Table**

LOGICAL AXIS	ONTOLOGICAL AXIS	
Generality/Instances	Unities of containment, which are	Bonds on (co)variations of contents
GENUS	ONTOLOGICAL REGION	LAWS OF ESSENCE
	CONCRETE SELF-CONTAINED	ABSTRACT NON SELF-CONTAINED
SPECIES	(INTEGRAL) WHOLE	PARTIAL CONTENTS

<sup>28</sup> I repeatedly quoted this passage in former papers and books, maybe to compensate the scarce attention it gets in Husserlian literature.

<sup>29</sup> Both the Table and the basic claims of the “sermon” appeared in De Monticelli (2020-21; 2021).

<sup>30</sup> See Calvino (2016, First Lecture: Lightness, 3-35) and Kundera (1984).

	INDIVIDUAL	EIDETIC SINGULARITIES (tropes, abstract particulars)
TODE TI (Token) This tone here	$A(p,t,d,l)$	Pitch $p$ , Timbre $t$ , Duration $d$ , Loudness $l$

As Unitarians never ignored, essence has nothing to do with universality. An essence of an intuitive nature is the foundation of both singular and general descriptors: we find both of them on the Logical Axis (bottom-up).

The Ontological Axis vertically displays individuals as belonging to “material” ontological regions. Horizontally, it represents relations of ontological dependence between wholes and their inseparable partial contents (“moments”). Concreteness and abstractness are self-sufficiency and dependence. A concrete thing is a self-sufficient entity or a whole – it needs no integration to exist, as opposed to a color or the expression of a face. The Ontological Axis visualizes what Husserl takes to be the upshot of his formal ontology, from the *Logical Investigations* to *Ideas I*:

As a result, we arrive at important definitions of the formal categorial concepts of individuum, concretum, and abstractum. A non-self-sufficient essence is called an abstractum, an absolutely self-sufficient essence a concretum. A This-here, the material essence of which is a concretum, is called an individuum.<sup>31</sup>

We might also read these few lines as the legacy of the whole Unitarian Tradition: refuting Platonism by rejecting independent abstract entities, renouncing Aristotelianism by de-substantializing individuals and replacing substances with actualized structured wholes, escaping desert landscapes of Nominalism by discarding the Standard Ontological Partition in favor of a new ontology of concreteness, that we call Phenomenology.

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<sup>31</sup> Husserl (1983, p. 29, § 15: “Self-sufficient and Non-Self-sufficient Objects. Concretum and Individuum”).

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# MONADIC TRUTH AND FALSITY

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## *abstract*

*In Adelaster (2016), A. G. Conte proposes a distinction between de dicto and de re attributions of truth and falsity, which he illustrates mostly with documents of legal standing, but also with an artificial object (a false tooth). The present aim is to propose an analogous distinction between monadic (one-place) and polyadic uses of “true” and “false”, and to sketch some features of its logical functioning with closer attention to the monadic pole than is usual. One proposal is that, in these uses, “true” and “false” do not function as opposites under negation.*

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## *keywords*

*de re/de dicto; variable -adicity of “true” and “false”; negation; false teeth*

In his last major book, *Adelaster* (Conte, 2016), Amedeo Giovanni Conte makes a distinction between truth *de dicto* and truth *de re*. Some of the remarks I wish to make on truth *de dicto* and truth *de re* run athwart the distinction that Conte makes, although I hope that they will also throw some light on phenomena to which Conte drew attention in his proposal.

Perhaps I should begin by admitting some of my disqualifications for discussing the *de re/de dicto* distinction that Conte drew in *Adelaster*. The most disqualifying of these is that the *de re/de dicto* distinctions with which I was previously familiar are those that have been drawn in modal logic since the time of Aristotle, though the terminology only became established in the thirteenth century. So I may have been distracted in reading Conte by the fact that his distinction is verbally identical to some distinctions already in circulation. Though the specification that Conte gives of his distinction is perspicuous and well integrated into the scheme he presents, a further shortcoming of mine is that I cannot see how deep it cuts, for it seems to me that the sort of truth that Conte calls *de dicto* is also applicable to the sorts of things he uses to illustrate what he calls *de re* truth. Furthermore, it seems to me that one case that Conte cites as a prime example of imperfect *de re* falsity is in good logical shape. I permit myself to expand on this case as a way of introducing a distinction among uses of the adjective “true” that is not quite aligned with Conte’s *de re/de dicto* distinction but that seems to have been as often and as improperly overlooked as Conte’s distinction has been.

The case that I wish to begin with appears at the outset of the seventh chapter of *Adelaster*, where Conte is considering what he calls the “ontology of the false” and offers five alleged instances of the falsity of an object (Conte, 2016, pp. 121ff.). The first instance he considers is that of a tooth. He puts the question of whether the *ontic* falsity (*Sachfalschheit*) of a tooth is a sufficient condition for its *semantic* falsity (*Sprachfalschheit*) (p. 125). And he says that the answer to this question is “obviously” (*loc. cit.*) negative: and the reason is that a tooth is not susceptible of semantic falsity. The reason Conte gives for saying that a tooth cannot be semantically false is that a tooth is not a “semiotic object” (p. 126). So far, so good. If I understand aright, granted that a tooth is not true or false of anything else, which would be a semiotic function, then it cannot be assessed semantically. Even if it is ontically false, it is not semantically false. But Conte seems at this point to leave the question of a tooth’s being ontically false rather up in the air, admitting in a footnote (n. 10 to p. 125) that “ontic” is something of a neologism dating to no earlier than the seventeenth century, and leaving it there.

The other four alleged instances of objects that are considered, in Conte’s distinction, as

potentially *de re* false are: a fiche used in gambling (2016, pp. 126-128); a will or testament (pp. 128-130); an attestation or certification (pp. 130-132); and a banknote (pp. 132-134). In Conte's view, with which it would be hard to disagree, each of these can be false. But it seems to me that the falsity in question is not so very different from the falsity that invests a sentence such as "Paris is the capital of Spain" or a statement of that sentence (an occasion of its utterance) or the proposition that that sentence expresses or a belief that might be expressed by it. In each of these cases, we have to do with a "semiotic object": something that is *about* something and, so, is true or false *of* it. Thus, when such objects are genuine, they are *de dicto* true and, when they are not, they are *de dicto* false: the fiche has stamped on it a certain monetary value; the will asserts who is to inherit what; the certification reports (in Conte's example, p. 131) the passing of a university examination; and an apparent \$20 bill is exchangeable for twenty dollars' worth of goods. In these cases, the stamping, the asserting, the reporting and the fungibility are semiotic functions and so associable with *dicta*. When the objects are not produced in good order – the fiche is not issued by the casino in which it is wagered, the will is not signed by the owner of what is to be inherited, the exam form does not reflect examiner's honest estimate of the student's preparation, or the apparent banknote was printed privately and not by a central bank – then they should be described as *de dicto* false. Let us return, then, to the tooth that Conte allows may be ontically false, without providing a specification of what sort of falsity this might be beyond the denial that it is semiotic, predicative or apophantic (2016, p. 124).

I think I know what a false tooth is. Where I had my left upper lateral incisor, there is now a piece of plastic that looks like a left upper lateral incisor but is not one. Because it is not the tooth that grew out of my upper jaw when I was about nine years old, it is a false tooth. There are various ways I could describe the plastic object in question. Some of these, such as "denture", are mildly formal; others, such as "prosthesis" or "prosthetic tooth" smack of the technical. The former was adopted by Ludwik Zamenhof for Esperanto under the guise of "*dentaro*"; the latter are the most directly translatable – or transliterable – into some of the other languages, such as the Polish ("*protesa*") and Russian (пpотeз) that Conte gives pride of place to. Perhaps this is because the technology of making things that fulfil almost all the functions of a left upper lateral incisor spread to Eastern Europe only fairly recently and has not had time to bed down into the sort of colloquialism that we find in English, French, Italian and German (other modern languages to which Conte appeals) where talk about teeth that did not grow in place of the primary teeth tends to describe them as false, using words that are directly translatable into English with the word "false". I do not know enough of ancient medicine to be sure whether the Greeks and Latins would have described an object – perhaps made of wood or ivory – put in to take the place of a left upper lateral incisor as "ψευδής" or "*falsus*", and, even if they would have, the linguistic matter is perhaps not quite so important as Conte seems sometimes to give it credit for.

Body parts other than teeth may be prosthetic. On the whole, those that are more or less open to view, such as limbs or parts thereof (feet, hands, fingers), breasts, eyelashes and lips, attract the adjective "false", while those that draw less attention to themselves, such as hips and inner organs such as kidneys and hearts or even bone marrow, may be described as "replacements"; when the source is a biological entity, we tend to talk about "transplants"; when it is overall artificial, we have "implants". In intermediate or superficial cases, especially when the recipient is also the donor, such as skin and hair, the preferred vocabulary is that of a "graft", a terminology deriving from plant husbandry; but a wig or a toupee may be described as simply false hair.

I agree with Conte in thinking that teeth and perhaps other body parts should be treated differently from the sorts of objects that are of the nature of documents – fiches, wills,

certificates and banknotes – and that are therefore, in Conte’s terminology, semiotic. But it seems to me that at least as good a way of approaching this difference, or these differences, is to look not so much at the objects in question as at the functioning of the adjectives “true” and “false” when applied to them.

We have already begun to suggest that, when we have to do with the truth or falsity of semiotic objects, such appraisals invoke at least two categories of thing. One, which we might call the “truth-bearer”, is appraised according to whether or not it stands in some appropriate relation to the other, which recent fashion has dubbed the “truth-maker”. Some of this terminology has been subject to close scrutiny in recent analytic philosophy and I hesitate to enter into the fiery debates that have been ignited. Moreover, I wish to steer clear of the question of appropriate relations between truth-bearers and truth-makers because it is as old and unresolved as philosophy itself. What I want to bring to the fore is how the adjectives “true” and “false” are being considered as at least two-place or dyadic predicates: when it is true, a truth-bearer is true *of* the truth-maker and, when it is false, it is false *of* it.

Because of the further relativisations that some theories of truth for linguistic or quasi-linguistic objects call for, there may be further circumstances that need to be specified, such as the language in which a sentence is uttered, or the time and place at which a statement is made in order to make the truth-(and falsity-)conditions exhaustive or determinate. When we have to do with a relation between a truth-bearer and a truth-maker, being true or being false is at least a dyadic predicate and may be an  $n$ -adic predicate for reasonable values of “ $n$ ”. By contrast, the piece of plastic that occupies the place in my mouth once occupied by my left upper lateral incisor is a false tooth, but it is not false *of* anything. It would be pretty wild to think it a semiotic object that, in one way or another, says “I am a left upper lateral incisor” or similar. Even if someone were so wild as to think so, one might wonder whether it is wilder to think that what this piece of plastic is taken to be saying is true or false.

Degrees of wildness here are hard to judge with any precision, but it is surely not right to say either that such an assertion attributed to the bit of plastic would be true or that it would be false. So we do well to follow Conte and deny that a tooth is a semiotic object, and to remind ourselves that, while my upper left lateral incisor is a false tooth, its neighbours to left and right are not. Some ways of expressing this include saying that they are “natural” or “my own” rather than that they are “true”. Even someone – and I know of a case of this in a person over fifty years old – whose teeth in the places of the incisors are still primary teeth might say, pointing to the appropriate place in her mouth, “this is *my* tooth and I do not want a false one in its place”.

Broadly speaking, when “true” and “false” are used as (at least) dyadic adjectives, the items they are predicated of have the following fairly formal characteristic: if the item is true, then the negation of the item is false and *vice-versa*. Thus, in attributing truth and falsity to sentences, if “snow is white” is true, then “it is not the case that snow is white” is false and, if “snow is pink” is false, then “it is not the case that snow is pink” is true. In such cases, we might say that “true” and “false” are opposites under negation: a “not” switches from true to false and, when iterated, back again. But we have begun to see that the negation of “this is a false tooth” is not obviously “this is a true tooth”.

So the suggestion is that, when used of a tooth, “false” is not a dyadic adjective, but rather a one-place or monadic adjective. Likewise, there are uses of “true” as a monadic adjective. Granted that the English sentence “Paris is the capital of Spain” is false, the falsity in question is pretty clearly dyadic: the sentence, or a statement of it or the proposition or the belief that it expresses is false *of* Paris because Paris is not in Spain. But if we consider some strings that appear in books catalogued in libraries as being in English, we might wonder whether they are true sentences. Thus, my spell-checker, set to English, objects quite strongly both to “Whatif

she be in flags or flutters, reekierags or sundyechosie, with a mint of mines or beggar a pinnyweight” as well as to “the gloopy malchiks scatted razdrazily to the mesto”. Though both the books from which these strings are extracted (James Joyce’s *Finnegans Wake* and Anthony Burgess’ *A Clockwork Orange* respectively) have been translated into other languages, one might hesitate before saying that they have been translated from English. Something of the same holds of not a few ostensible sentences that we find in some academic writing, including the following from a book recently put on sale by a reputable London publisher: “Descartes’ subjective account is reliant on the mental state that can confer to the objective world, as the content of the mental states impregnates the certain beliefs of the objective world that may irrespectively be true or contingent”.<sup>1</sup> Again, when I encountered in an exam script the string “time, nowadays, people are against it”,<sup>2</sup> I thought briefly that I understood what was being said, and that perhaps what was being said was true, but I could not bring myself to think that it was a true sentence because of its offences against English usage.

In their various ways, the four strings of words just cited are not true sentences, and the truth that I want to deny of them involves their not being genuine sentences of English, even though at least some speakers of English can make out more or less what they are saying in a way that a monoglot speaker of, say, Swahili could not. We may generalise a little and say that one way that the phrase “true sentence” can be used is as a contrast with a sentence’s being (overly-) neologistic, muddled, ungrammatical or otherwise ill-formed. We may also formalise a little and make four brisk observations about such uses of “true”.

One is that “false” is not, in such cases, “true”’s opposite under negation. For this reason, we may say, apeing Wolfgang Pauli, that strings like those we have cited are not even false. But we may go a little further.

A homogeneous cube rolled at random will show each of its faces on average a sixth of the time. This makes it a true die and fit for gaming. In some languages, the order of noun and adjective can indicate a difference of emphasis, for instance, between a die’s being fair, even if it has the shape of a knucklebone, and something’s bearing some superficial resemblance to a standard die without genuinely being one, for instance because it is too large or fragile to be rolled. The correspondences of “true” with these terms (“fit”, “fair”, “genuine”) are clear signs that we have to do with evaluations; but it is not right to deny such attributions by saying that some supposed die is false.

Perhaps a corollary of the first observation is, as we have already hinted, that “true” and “false” can both function as monadic adjectives. Thus both “Paris is the capital of France” and “Paris is the capital of Spain” are true sentences because they are clear, grammatical and well-formed, even though, when we take “true” and “false” as dyadic adjectives that indicate a relation between a sentence, statement, proposition or belief on the one hand and a state of affairs or matter of fact on the other, the former is true because Paris is the capital of France and the latter false because Paris is not the capital of Spain.

A third point regards the sort of adjective we are dealing with when “true” and “false” are used in their monadic acceptation. A simple grammatical test indicates that we have to do with attributives. Perhaps this comes out less clearly with “true” than with “false”, but it does not generally hold that, from “*x* is a true *F*” we can infer that *x* is true and *x* is an *F*. For, when the predicate position is filled with, for instance, “hoax” or some other term indicating deception, it seems that we can have a true hoax (one that is successful or at least amusing), even though anyone taken in by it will acquire false beliefs. By contrast, “false” is an attributive that is close

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1 With thanks to Stefano Caputo for the citation from a book he was condemned to review.

2 Citation anonymous to protect the guilty.

to being *alienans*: from “*x* is a false *F*” it is a good bet that *x* is not an *F* at all. But even this bet is not sure-fire, as we have already seen with “tooth”: my upper left lateral incisor is false, but it is also a tooth. Likewise, a false prophet is a prophet of sorts, perhaps of the only sort there is. And fourth, though the prevalent contrary of “true” as a dyadic adjective is “false”, this does not hold generally for monadic uses. Thus, a painting that is not a true Vermeer is rather a fake or a counterfeit, though it may be a true van Meegeren. A necklace may be a string of orthorhombic calcium carbonate spheres and hence of true pearls; but if they are made of plastic, they are at best artificial or imitation. And the twelve good men<sup>3</sup> and true who make up a jury are hard to corrupt or otherwise mislead, but no less and no more human for that. Likewise, it is said that no true Scotsman wears anything under his kilt, but perhaps it would be improper to pursue this line of enquiry.

While “true” and “false” in their dyadic uses are focally applied to linguistic items of the kinds already referred to, they may also be applied to other sorts of representations in ways that may nevertheless be best construed as monadic. For instance, a painting can be a true likeness if it captures what the sitter looked like at the time the painting was made even if he was impersonating Bacchus for the purpose. But a photograph, for instance for a passport, can be certified “a true likeness” if it captures what the subject looks like unadorned. For instance, habitual wearers of hats and dark glasses – not to mention woad – are required by rules set out by the relevant authorities to *misrepresent* themselves for this purpose, though uses of facial cosmetics, such as lipstick, seem not raise eyebrows (whether plucked or not).

Again, there are various sorts of indicators that can give more or less true information according to how accurately they are prepared. For instance, if a thermometer is not well calibrated or not given time to adjust to the thing whose temperature it is taking, it will give a false reading. The occurrence of “reading” here is by no means accidental, but it would be a stretch to think of a thermometer’s scale as a linguistic item in any full sense.

As the lines on a thermometer track the mean kinetic energy of what it is in contact with, so the iron needle of a compass will align itself with the Earth’s magnetic field. Loosely speaking, the needle points north. But the north to which it points is only loosely associated with the axis (or imagined pole) around which the Earth turns, which coincides with the point, the North Pole, where the lines of longitude meet. For the orientation of the Earth’s magnetic field only occasionally coincides with the axis or the lines of longitude. This is because, for reasons that geologists are still puzzling over, the alignment from time to time of the magnetic field depends on flows of molten ferrous material in the Earth’s core. Because the needle in the compass is sensitive to magnetism, it tracks these variations. For this reason, and especially at high latitudes, the difference between magnetic north and true north can be significant. But what is more significant for our purposes is the contrast between magnetic north and true north. Here, “true” is clearly a monadic adjective: true north is not true of anything and magnetic north is not false north, though one may be misled by a compass that points to it. In connection with rotation around an axis, it may also be worth citing a usage that may be peculiar to English, but it would please me to learn of analogues in languages of which I am ignorant. Take a wheel that turns around an axle. If the wheel is not radially symmetrical or is weighted on one side, or the axle is not centred, then the wheel will not turn smoothly or regularly. In such a case, it is good English to say that it is “out of true”; but, again, it is not a false wheel. The same usage applies also, for instance, to a wall in which the bricks are either horizontally or vertically misaligned so that the wall bends or slopes. We may also say that the labourer who slung it together is not a true brickie.

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<sup>3</sup> Lately: persons.

To raise the tone by way of coda, but without entering into heavy-duty philology, we may recall Plato's perplexing uses of the idea of false pleasures in the *Philebus* (off and on between 35c2 and 42c4) and the association offered in the *Lysis* between the true friend and the notion of the "first friend" (219c-d). This latter is no doubt Aristotle's inspiration in the *Eudemian Ethics* (VII, ii) for distinguishing different types of friendship (also *EN*, VIII, i), regarding that between responsible free adult males as true and others as less so. In similar vein, Aristotle has few qualms about ordering the acceptations of notions such as courage (*EN*, III, vi *et seq.*) and pleasure (*EN*, X, v) in such a way that the primary sense is true (ἀληθής) and the others are declinations. Yet even the Dutch courage induced by drinking rum is courage of a sort and we can understand why someone who bites their nails does so for a certain kind of comfort (*EN*, VII, v, 1148b27-8).

In short, while the *de re/de dicto* distinction that Conte makes may be well suited to his jurisprudential purposes in considering varieties of falsehood, we may widen our horizons by considering the grammatical and logical functioning of the adjectives "true" and "false" in light of the number of places that they call to be filled (their "-adicity"). While philosophers have been much taken up with filling out notions of dyadic truth, the present suggestion is that monadic truth and falsity are also legitimate and, I hazard, more interesting than I have been able to give them credit for here.

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# ONE BUT NOT THE SAME<sup>1</sup>

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## *abstract*

The paper aims at identifying similarities and differences between two different ways of using the word “true”, on the one hand when it is used to refer to a property of what we say or believe, here called “words’ truth”, on the other when it is used to refer to a feature of things in general (as when we say “he is a true friend”), here called “things’ truth”. I will point out how such similarities and differences may be usefully described starting from the feature of truth called “transparency” which is often considered as exclusively pertaining to words’ truth. The upshot of the paper will be that Aquinas was right in considering the two kinds of truth as species of the unique genus “adaequatio rei et intellectus”, but that this conclusion can be reached without any commitment to the ideology (in the Quinean sense) of the correspondence theory of truth.

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## *keywords*

truth, correspondence, transparency, Tarskian biconditionals, deflationism

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**1. Introduction** The adjective ‘true’ is used to characterize both the things we say or believe (“What Nicola said is true”, “It is true that Palermo is in Sicily”, “The Pythagorean Theorem is true”) and things of any kind (“He is a true friend”, “Is this a true Picasso?”). I will call the first property “Words’ truth” and the second “Things’ truth”.

Thomas Aquinas considered the two truths within a unitary framework: according to him both were in fact species of a single characteristic, *adaequatio intellectus et rei*, that is to say, the correspondence/fitting of the mind and the thing. Truth-of-words is in fact a matter of conforming to the objects that human intellect represents: for instance, when I utter a sentence such as “Orlando is clever”, what I say will be true if the object referred to by the name “Orlando” actually possesses the property referred to by the predicate “being clever”. The truth-of-things, on the other hand, consists in the conformity of them to their models in the mind of God, in the same way as the perfection of an artefact consists in its greater or lesser conformity to its model in the mind of its designer (*Summa Contra Gentiles*, LXII).

The contemporary philosophical discussion on truth has abandoned this attempt to consider words’ truth and things’ truth as species of a single genus. It is sufficient to have a look at one of the many books on the problem of truth to realize that the topic of things’ truth and of its connection with words’ truth is either entirely absent or at most briefly mentioned in the preliminary chapter, with reference to Aquinas’ conception, in order to briefly stress that we are dealing with two different uses of the term “true” and that there can therefore be no theory of a single property, however generic, to which both of them refers.<sup>1</sup>

This divorce between the two kinds of truth and the widespread lack of interest concerning things’ truth has certainly its roots both in the increasing disaffection toward the correspondence theory of truth in the 20<sup>th</sup> century philosophy and the sheer lack of interest in things’ truth on the part of the founding fathers of analytic philosophy (such as Frege, Russell, Wittgenstein, Tarski, Carnap) to whom we owe many of the later developments in the philosophical and logical reflection on truth.<sup>2</sup>

But, apart from the misadventures of the correspondence theory, there is a strong reason

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1 Conte (2006; 2007), Tuzet (2010) and Caputo (2016) are an exception to the almost general lack of interest in the topic.

2 According to Marconi (2022, pp. 71-80), Thomas Aquinas already regarded words’ truth as the core of the notion of truth, considering instead things’ truth as a legitimate sense, albeit derived from the former, of the word “true”.

in support of the claim that words' truth and things' truth are different properties: that is that a thing can possess the latter property without possessing the former. For instance, the sentence "Paris is in Italy" is a true (things' truth) sentence of English (unlike "Italy is in Paris") but is not a true (words' truth) sentence, since Paris is not in Italy. Therefore, the word 'true' must refer in the two cases to two different properties.<sup>3</sup>

However, two different properties can still be species of a single genus (like the properties of being a cat and being a dog with the genus <animal>) or determinates of a single determinable (like the determinates being crimson and being scarlet with the determinable <red>).

This seems to be the view of Thomas Aquinas: in fact, he did not claim that things' truth and words' truth were the same thing, but that they could be regarded as two different forms assumed by the correspondence of the intellect and the thing, i.e. somehow two species of the same genus.

In what follows I will defend Aquinas' idea, that is to say that words' truth and things' truth are indeed two species of a single genus or, if you prefer, of a single general concept; but I will do this without committing myself to a correspondence conception of truth. I will in fact make appeal to what, according to many philosophers, is an essential feature of the concept of truth and should therefore be accepted by any theory of truth as a basic fact concerning truth itself. This is what W. V. O. Quine called "Transparency".

Pointing to the disquotational character of the truth-predicate, Quine (1990, p. 82) said that truth is "transparent". This means that whoever understands the predicate "is true" and a sentence of English "p" should be disposed to accept biconditionals of the form

## **2. Transparency: from words' truth to things' truth**

- (T) "p" is true if and only if p  
(T1) It is true that p if and only if p.

Sentences of this form are called "T-biconditionals" or "Tarskian biconditionals", since notoriously Tarski (1935) claimed that they express the core of the concept of truth and that, consequently, a definition of the notion of truth is adequate insofar as these biconditionals are deducible from it.

That the acceptance of the sentences of the form (T)/(T1) is at the core of our concept of truth shows up in the fact that the following two sentences (which entail the negation of the correspondent instance of (T1)) seem to assert a contradiction:

- 1) It is true that Turin is in Italy and Turin is not in Italy
- 2) It is not true that Turin is in Italy and Turin is in Italy.

Although these are not explicit logical contradictions such as

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<sup>3</sup> Tuzet (2010) identifies the attempt to reduce things' truth (which he calls, following Conte (2006; 2007) "eidetic truth") to words' truth (which he calls "semantic truth") with that of showing that sentences of the form "a is a true F" are equivalent to sentences of the form "'a is an F" is true". But, firstly, the mere fact that two sentences 'p' and 'q' are semantically equivalent still says nothing about which of the two is conceptually and/or metaphysically prior (since the relation of semantic equivalence is symmetrical while the relation of metaphysical or conceptual priority is not). Secondly, even if the sentences of the two forms were equivalent, the non-identity between the two properties and the non-reducibility of things' truth to words' truth would still be demonstrated by the fact that there are things that are true in the sense of things' truth without being true in the sense of words' truth (as the example above of "Paris is in Italy" shows) whereas, for one property to be reducible to another, it is necessary that if a thing has the first property it also has the second.

(3) Turin is in Italy and Turin is not in Italy,

asserting (1) and (2) seems indeed equivalent to asserting (3).

The reason for this is that when we say that it is true that Turin is in Italy we are also disposed to assert that Turin is in Italy and when we say that Turin is in Italy we are also disposed to assert that it is true that Turin is in Italy: attributing truth to something we say or think is equivalent to asserting that things are a certain way. Truth is therefore transparent in the sense that by attributing truth to the things we say or think we are indirectly talking about the world: through the lens of truth, we see the world.

Is things' truth also transparent? In order to answer this question, one has to find the analogous of T-sentences for things' truth. This is easily done. Attributions of things' truth have usually the form "a is a true F", where "a" is a singular term and "F" is an adjective modified by "true". Two instances of this form are

- 4) This is a true Picasso
- 5) Andrea is a true friend.

Since in the case of words' truth we obtain the right-hand-side of a T-biconditional by erasing the truth predicate from its left-hand-side and disquoting the sentence to which it is applied we can proceed in a similar way in order to obtain the right-hand-side of a T-biconditional in the case of things' truth. So, the T-biconditionals corresponding to (4) and (5) are respectively

- 6) This is a true Picasso if and only if this is a Picasso.
- 7) Andrea is a true friend if and only if Andrea is a friend.

Are (6) and (7) true?

In order to answer this question let's consider the sentences which should be true if (6) and (7) were false, that is to say:

- 8) This is a true Picasso and it is not a Picasso
- 9) This is not a true Picasso and it is a Picasso.
- 10) Andrea is a true friend and he is not a friend
- 11) Andrea is not a true friend and he is a friend.

(8) and (10) sound as contradictory as (1): in fact, if something is a true F, *a fortiori* it is an F. What about (9) and (11)? There is a reading of them in which they sound as contradictory as (2). This is the reading according to which a painting which is not a true Picasso and a person who is not a true friend are respectively a *fake* Picasso and a *fake* friend, things which *look like* being a certain way without actually being such: true friends/Picassos are in this reading opposed to false friends/Picassos and the latter are precisely things which appear to be friends/Picassos without actually being such. If we find out that the person that we considered our best friend is having an affair with our wife we would strip him of the title "friend" along with the title "true friend": to discover that someone is not a true friend is often to discover that he is not a friend for real, i.e. not a friend at all. Since in this reading to be a true Picasso/friend is to be an *authentic, real* Picasso/friend, there are no Picassos/friends which are not also true Picassos/friends; therefore (6)/(7) are true and things' truth turns out to be as transparent as words' truth.

In these cases, when we say that something is a true F, we seem to be doing nothing more than

attributing to it, with particular emphasis, the property of being an F, i.e. the same thing we do when we assert with conviction that it is an F, and we seem also to do it in a *contrastive way*, that is to say having in mind the contrast class of the things that are only *seemingly* Fs.<sup>4</sup>

Things are yet more complicated.

Consider in fact a painting made by Picasso at an early and still immature stage of his career or one he made just by joke; these paintings, although made by Picasso, are not *paradigmatical* Picassos, since they are not endowed with those specific stylistic traits typical of Picasso's mature work. Or consider, as far as friendship is concerned, a case in which Andrea, who has always behaved as friends are expected to do, at one point refrains from doing something that one would expect from friends in the fullest sense of the word, a case in which he is not willing to go the extra mile for you. In such cases we would probably say that the paintings in question are not true Picassos and that Andrea is not a true friend; but would we still be willing to say that the paintings are Picassos and that Andrea is a friend?

Here much depends on the different policies for predicates application that can be adopted: one can adopt either more relaxed policies and to be willing to apply a predicate also to individuals that are not perfect/prototypical instances of a given property, so that "Andrea is a friend"/"This is a Picasso" come out true, or more demanding policies and to consider them as borderline cases of the application of the concept, so that those sentences come out neither true nor false, or even more demanding policies, pushing non-paradigmatic cases outside the extension of the concept and making the corresponding sentences false: this happens when one is disposed to apply a word such as "friend" only to the set of persons who fully possess a whole set of properties.

Although each of these three semantic policies is an open option for speakers, it seems to me that many ordinary speakers, upon reflection, would adopt the intermediate policy, considering neither fully true nor fully false the sentences in question. In the case of the immature or made by joke Picasso, for instance, we would say upon reflection things like "Well, it is in some way a Picasso and in some other not" or "It is a Picasso in a manner of speaking". This oscillation depends on the fact that speakers may use different and also contrasting application conditions for a predicate like "being a Picasso": one condition appeals only to the origins of a work of art, the other demands also the possession of some stylistic traits; the immature or made by joke Picassos satisfy the first condition but not the second and the latter, differently from the former, can be satisfied at different degrees by different objects.

Similarly in the Andrea case we would say things like "he is neither exactly a friend nor a non-friend: he is partially but not entirely a friend; he is almost a friend"; likewise in front of a shade of color that is between green and blue, we would say that it is neither fully green nor not green but quasi-green, between green and blue.

It must be stressed that both the first (more relaxed) and the second (intermediate) semantic policy make things' truth non-transparent: both policies make in fact diverge the truth-values of "Andrea is a true friend"/"This is a true Picasso" on the one side and "Andrea is a friend"/"This is a Picasso" on the other side when Andrea and the painting are not paradigmatical/perfect cases of their categories. In such cases in fact while the former sentences come out false the latter come out either true (by the most relaxed policy) or neither true nor false (by the intermediate one), so the "Tarskian" biconditionals (6)/(7) turn out to be false, since their right and left-hand-sides have not the same truth-value; but this amounts to the failure of transparency for things' truth.<sup>5</sup>

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4 On this contrastive use of "True F" see §4.

5 So, in order to show that transparency fails with things' truth, it is not necessary to claim, as I did (Caputo, 2016),

Transparency of things' truth is on the contrary preserved by the third, more demanding policy: by adopting this policy things will in fact be sharply divided between those who are friends/Picassos and those who are not. Since in this case not only "a is a true friend" entails "a is a friend" but also "a is not a true friend" entails "a is not a friend", the biconditional "a is a true friend if and only a is a friend" is true and transparency is saved.

The reason of the failure of transparency for things' truth lies therefore in the fact that many of our concepts have, as we know after E. Rosch's (1975) work on concepts, a radial structure which allows for the existence of central/paradigmatic cases and more peripheral cases. This depends on the fact that many concepts, and the corresponding properties, can be conceived as clusters of several other concepts/properties, many of which can have different degrees of exemplification by different individuals. So, for instance, as Tuzet (2010) stresses, we can think the concept/property <friend> as a cluster of several concepts/properties (like *being trustworthy, loyal, ready to help in hard times, unwilling to hurt* and so on) which can be possessed in different degrees by different persons (one person can be more or less trustworthy or loyal than another): a true friend is someone who exemplifies all these properties at a sufficiently high degree; someone (like the fake friend who has an affair with my girlfriend) who doesn't exemplify many or all of these properties or exemplifies them at a low degree is not a friend at all; in between these two extremes there are people who, depending on the policy for concepts application adopted, are classified either as neither definitely friends nor definitely non friends or as friends (although not in the fullest sense of the word).

Finally, it should be noticed that there are cases of concepts/properties like <being a dollar> for which there seems not to be any difference between something which is an F (a dollar) and something which is a true F (a true dollar): something which is not a true dollar is not a dollar at all. In cases like this transparency of things' truth holds. The reason for this fact is that the application conditions of this concept appeal only to the origins of the things in its extension and their satisfaction is therefore a question of yes or no.

**3. Words' Truth:  
Transparency Lost  
and Regained**

Does the failure of transparency for things' truth mean that things' truth and words' truth part ways? It doesn't, at least if the intermediate semantic policy is adopted.

In fact, as Dummett (1959) stressed, if bivalence fails for the right-hand side of a Tarskian biconditional the latter is false. Sticking to our example, if "Andrea is a friend" is neither true nor false, "Andrea is a friend' is true" must be false and therefore

12) "Andrea is a friend" is true if and only if Andrea is a friend

is also false.

Therefore, it seems that transparency fails also for words' truth in such cases: words' truth and things' truth are in the same boat when bivalence fails.

As is well-known H. Field (1994) claims that the truth of the Tarskian biconditional (12) can be restored, when Andrea is a quasi-friend, a borderline case of friendship, by embracing a purely disquotational understanding of the truth-predicate and interpreting the conditional "if p then q" in a non-classical way (Field, 2008). A purely disquotational notion of truth is one according to which asserting "'p' is true" is cognitively equivalent, for a speaker who

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that "Andrea is a friend" can be true and "Andrea is a true friend" false: for this purpose, it suffices in fact that "Andrea is a friend" is neither true nor false. Thanks to two anonymous referees and to Diego Marconi for having pointed out to me that also a concept/property such "being a Picasso" is in the same both with concepts/properties like "being a friend" as far as the failure of transparency for things' truth is concerned.

understands “p”, to asserting “p”; the non-classical interpretation of the conditional is one in which “If p then q” is true whenever the antecedent and the consequent have the same evaluation (even if this is for both *not determinately true*), i.e. a conditional in which “if p then q” means “q is not less true than p”.

Notice that, first, if one embraces the purely disquotational notion of truth, then “‘p’ is true” inherits the degree of indeterminacy of “p”; in other words, if Andrea is a quasi-friend, someone who is not determinately a friend, then also the sentence “‘Andrea is a friend’ is true” is, at the same degree, neither determinately true nor determinately false. Therefore, given the non-classical interpretation of the biconditional, (12) turns out to be true even when Andrea is a borderline case of friendship.

It is worth noticing that this strategy for regaining transparency is the opposite of that adopted for things’ truth. While in fact in that case transparency was regained by strengthening the policy for the application of a concept, in this case it is restored by adopting a more relaxed, purely disquotational truth predicate which applies also to sentences involving non-paradigmatic cases.

According to Field (1994) a stronger notion of straightforward truth (TRUTH) which applies only to non-borderline cases can be defined starting from the disquotational notion in the following way:

“p” is TRUE =<sub>DEF</sub> “determinately p” is true,

where “determinately” is a primitive operator whose content can be clarified, according to Field, describing some basic regularities of its use.<sup>6</sup>

Notice that since, given a purely disquotational notion of truth,

13) “a is an F” is true if and only if a is an F

is a conceptual truth, while

14) a is a true F if and only if a is an F

is sometimes false,

15) “a is an F” is true if and only if a is a true F

is not always true.<sup>7</sup> This happens when a is a non-paradigmatic case of being F: in this case in fact the left-hand-side of (15) is neither determinately true nor determinately false while the right-hand-side is determinately false.

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<sup>6</sup> According to Field (1994), the stronger, non-disquotational notion of truth can also be used to mark the difference between factual truths and other kinds of alleged factually defective discourses such as, for instance, evaluative discourse (e.g., moral or aesthetic discourse): sentences belonging to these kinds of discourse would in fact be truth-apt in so far as disquotational truth is involved but would not be so when it comes to the stronger notion of TRUTH. Notice that if one grants that in such cases the stronger truth-predicate expresses a realist notion of truth, adopting more demanding policies of assertion for the truth-free sentences amounts to claiming that, when evaluative discourse is at stake, even though we may, for the sake of conversation, assert a lot of things and, within the conversation itself be thus legitimized to call them disquotationally true, if we take a more austere philosophical stance, once we realize that there is no mind-independent reality to which our evaluative assertions are accountable, then we should simply stop making those assertions and with that also stop attributing truth to them.

<sup>7</sup> This is also stressed by Tuzet (2010).



The equivalence between the sentences ascribing things' truth and those ascribing words' truth holds on the contrary when what is ascribed is the strong truth predicate (TRUTH): in fact, given the definition above, to ascribe TRUTH to a sentence amounts to saying that it is determinately true, so

16) "a is an F" is TRUE if and only if a is a true F

can never be false, given that a is a true F when a is determinately an F and when this is the case "a is an F" is determinately true, so TRUE.

This equivalence between ascriptions of TRUTH and ascriptions of things' truth depends on the fact that they have the same expressive role: the expressive role of the notion of things' truth is in fact that of marking the central/paradigmatic cases of the exemplification of a property and distinguishing them from more peripheral or borderline cases. But this means that the notion of things' truth is a tool we have in our languages to say that something *definitely* has a given property, a tool therefore which has the same role of the notion of *straightforward truth* which can be construed starting from a purely disquotational notion of truth.

#### 4. Truth in the Realm of Deception<sup>9</sup>

Consider the sentence

17) Sara is not a true ice cream.

As Sara is a woman which, as such, doesn't resemble at all to an ice cream, (17) seems mistaken: women in fact are not the kind of things to which it can be sensibly either attributed or denied the property of being a true ice cream. So, it seems correct to say that (17) is neither true nor false. But

18) Sara is not an ice cream

is clearly true. So, by adopting a non-classical interpretation of the conditional, according to which " $P \rightarrow Q$ " is true just in case "Q" is not less true than "P", we have that

19) Sara is not an ice cream  $\rightarrow$  Sara is not a true ice cream

is false since its antecedent is true and its consequent is neither true nor false.

But (19) is equivalent, by contraposition, to

20) Sara is a true ice cream  $\rightarrow$  Sara is an ice cream.

So, we have a counterexample to the left to right direction of the biconditional "**a** is a true F if and only if **a** is an F", whereas until now the direction of the biconditional that seemed problematic was the right to left one (from "**a** is an F", to "**a** is a true F"). Moreover, in this case

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<sup>9</sup> This paragraph is an attempt to take into account a strong point that has been put forward to me by Sara Papic, to which I'm grateful, during the conference "The True, the Valid and the Normative" (San Raffaele University, Cesano Maderno, September 20-22, 2022).

21) Sara is a true ice cream if and only if it is true that Sara is an ice cream

comes out false, since, given that Sara is not an ice cream the right-hand side of the biconditional is false whereas the left-hand side is neither true nor false.

What does this failure of the left to right direction of T-biconditionals for things' truth and of the extensional equivalence between things' truth and words' truth reveal on the nature of the former? As we have seen the failure of the right to left direction is a consequence of the expressive role of things' truth, that of marking the difference between central and peripheral cases of a property's instances. It could be pointed out that the failure of the left to right direction of the biconditional is inconsistent with this expressive role: in fact, if, going from paradigmatic to non-paradigmatic instances of a property, things' truth get lost, *a fortiori* it should be lost when we jump outside of the extension of the property; in other words, if the only role of things' truth were that of marking the distance between paradigmatic and peripheral cases, and if it is correct to say of a peripheral case of being F that it is not a true F, it should *a fortiori* be correct to say the same of something that is not at all an F: if Sara has not the property of being an ice cream, *a fortiori* she has not the property of being a true ice cream. Concerning this point notice, first of all, that there is a reading of (17) in which it comes out true; this is the reading according to which the sentence is true just when Sara has not the property of being a true ice cream; since true ice creams have surely the property of being ice creams and Sara lacks this property, Sara lacks trivially also the property of being a true ice cream, and so she is not a true ice cream, end of the story, however strange or inappropriate the latter sentence may sound. So, in this reading of (17) both the left to right direction of the T-biconditional and extensional equivalence of things' truth and words' truth hold.

The reading of the sentence making troubles for the T-biconditional is therefore that in which "x is not G" is not understood simply as saying "x has not the property of being G" but as "x is H" where being H is some intended *polar* property of being G. In this case the polar property at stake is of course *being a false F*: notice in fact that while there is at least an understanding of (17) in which the sentence is true,

22) Sara is a false ice cream

seems to be clearly unacceptable.

But does this failure of the left to right direction make really troubles for my claim concerning the role of things' truth and its similarities in logical behavior with words' truth? Not so much. Let's see why.

Notice, first of all, that the failure of the left to right direction of the T-biconditional depends in this case by a quite general semantic phenomenon like polarity in properties ascription, a phenomenon which concerns not only things' truth but also words' truth and many other properties.

Consider in fact the following sentences:

23) number 3 is not true

24) number 3 is not hot.

As in the case of things' truth there is a reading of (23) and (24) in which they come out true: that according to which they say that number 3 has not the property of being true and the property of being hot. There is also a reading in which (23) and (24) sound mistaken: that in which "is not true" and "is not hot" are read as "is false" and "is cold (or lukewarm)", that is to say the reading according to which the negation of the exemplification of a property is

considered equivalent to the attribution of some polar property and exemplification of both properties is constrained to objects of a given kind (in the case of words' truth, to so-called truth-bearers).

Does the specific kind of ontological restriction on the range of objects that can exemplify things' truth makes troubles for what I have been saying concerning its expressive role and its similarities to words' truth? I think just in part and not dramatically.

The reason why it is totally mistaken to say of women that they are false ice creams is in fact that they have nothing of ice creams, they are not, no-doubt, ice creams, no one could mistake them for ice creams. But all this is consistent with the expressive role I attributed to things' truth: in fact, we need to mark the difference between central and peripheral cases of a property's instantiation because it is important for us not to confuse them, and this is important for us since peripheral cases may behave at some point differently from central cases. Therefore, it is pointless to mark the difference between central cases of being F and things that nobody could sensibly mistake for things that are F. This is not however the end of the story. Imagine in fact that Sara is dressing a perfect ice cream costume: in this case it seems to me that it would be perfectly correct to say that Sara is a false ice cream, despite the fact that she is not an ice cream at all and therefore not even a peripheral case of being an ice cream. The reason why Sara can correctly be said to be a false ice cream is in this case that, although she is in no way an ice cream, she *looks like* an ice cream and therefore she could be *mistaken for* an ice cream (a walking one): in a sense things' truth has to do with the possibility of *being deceived* by something's appearances, it has his place where a gap between appearance and reality lurks: a true F is, in a sense, something which doesn't lie about itself, something whose appearances are not deceiving.

This function of things' truth seems to me to ground its expressive role of marking the difference between central and peripheral cases of a property instantiation: in fact, we need to distinguish central from peripheral cases since we don't want to be deceived by the similarities, up to a certain point, of the latter to the former.

Finally, it should be noticed that also in this respect things' truth and words' truth seem to be interestingly on a par: propositions, if one grants that they are the primary truth-bearers, are in fact the content of beliefs and assertions and these are representations of reality; but an essential feature of representations is that they can *misrepresent* reality: both words' truth and things' truth thus seem to be deeply intertwined with our capacity to get wrong and our willingness not to do so<sup>9</sup>.

**5. Conclusions** Although things' truth and words' truth are two different properties, they exhibit interesting similarities and differences when transparency, that is to say their compliance with Tarskian biconditionals, is at stake. In fact, while they both are transparent when predicates whose application conditions are not a matter of degrees and whose extensions have sharp boundaries are involved, their transparency is threatened when concepts with radial structure and borderline cases are at stake.

Transparency can be regained for words' truth by considering the truth predicate as purely disquotational, a feature that, according to *Deflationism*, is essential to explain the expressive role of the truth predicate (see Field, 1986; Horwich, 1990).

As far as thing's truth is concerned transparency can also be regained by adopting demanding practices for concepts application which do not admit borderline cases. Yet, this move

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<sup>9</sup> An interesting point, that cannot be gone through here, is whether this role of the truth predicate is consistent with what deflationists say about truth.

deprives things' truth of what seems to be its essential expressive role: that of marking the difference between paradigmatic and non-paradigmatic cases of the application of a concept. Moreover, we have seen that both words' truth and things' truth seem to be deeply intertwined with our capacity to get wrong; our representations can misrepresent reality and things can engender, by looking like what they are not, such misrepresentations. I think that all these similarities as far as transparency is concerned allow to consider words' truth and thing's truth as species of a single genus or determinate properties of a single determinable: they are one but not the same. So, after all Aquinas was right in taking them as two different kinds of correspondence, "adaequatio rei et intellectus".

The good news is that we can spell this out without committing ourselves to the correspondence theory of truth but just sticking to Tarskian biconditionals.

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# TRUE GOD AND TRUE MAN: SOME IMPLICATIONS

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## *abstract*

*The paper aims to analyze the problems that religious truth, particularly Christian truth understood as an event, poses to the category of de re truth. How does the conception of truth ‘as event’ stand phenomenologically in relation to the contemporary analytical debate on truth? Statements in the catechism such as “true God and true man” referring to Jesus, or the same words attributed to Jesus in John’s gospel (14:6) such as “I am the way, the truth or the life” how can they be understood in relation to the category of recently called ‘dual character concepts’? Is there a difference between the notion of ‘true warrior’ and that of ‘true God’? When is a person appropriately categorized as a true man? When is a person appropriately categorized as a true God? What is the relationship between faith and truth?*

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## *keywords*

*God; event; person; truth; faith*

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**1. Introduction** In the article, I will begin, in the second paragraph, with a theological theory from a reconstruction of Biblical citations in Amedeo G. Conte's theory of truth in *Adelaster* (Conte, 2016), and then analyze in the third paragraph the possibility of identifying the possible relevance of dual character concepts for theology, with particular reference to Christology. In the fourth paragraph I will attempt to provide a theological reading of the Contean theory of truth in the light of William W. Bartley's pan-critical rationalism, and then I will introduce, in the concluding paragraph, some elements for the configuration of a theory of truth as an event which is capable of developing some insights that seem to me to be present in the Contean theory of truth, and to put placing into dialogue with contemporary theological debate.

I do not intend to argue that there is a theological theory of truth in Amedeo Conte's thought. I simply seek to give an account of the presence of many Biblical references in *Adelaster*, which he assumes to be relevant in conceiving his philosophical theory of truth and which seem to me to authorize the introduction of a theological perspective in philosophy of language, precisely from the distinctions Conte poses. Moreover, this theoretical and theological perspective seems to me capable of showing how the Contean theory of truth is able to contribute to the contemporary debate on dual character concepts, precisely through a theological problematization of the notion of truth.

**2. Conte's Implicit Theological Theory of Truth in *Adelaster*** In Amedeo Conte's latest monograph text, the theological interest of a theory of the true emerges clearly. The quotations from Biblical texts (especially the gospel of John) are many and relevant. Such a relevance of Biblical texts can be read as nontheological, I think, only assuming in the interpreter some bias about the philosophical status of theology in contemporary debate. In this section I will try to read Conte's concept of truth moving from this theological perspective pointing out how it can lead to a conception of truth further to the classical philosophical theory that thinks of truth as coherence, correspondence, pragmatic truth or identity (Engel, 2002; Engel & Rorty, 2007): the theory of truth as an event, albeit the concept of truth is understood in various meanings from very different authors (Colombo et al., 1988; Sequeri, 1996; Badiou, 2007; 2009; 2022; Žižek, 2014).

Can it be assumed that Conte had a perception of these advances in the contemporary theory of truth?

The initial question posed in the volume is 'Τί ἐστὶν ἀλήθεια' replaced by the question "What are the entities of which the adjective 'true' is predicated?" (Conte, 2016, p. 22.) If

the utterance ‘Tu es Petrus’ (Σὺ εἶ Πέτρος) is the example of a *de dicto* truth (truth as correspondence of a sentence to a state-of-affairs, Conte, 2016, p. 30) for Conte *de re* truth is also relevant, in which the adjective ‘true’ is predicable of entities that are not utterances.<sup>1</sup> Examples are Popper’s claim that ‘A non-falsifiable theory is not a true theory’ or Conte’s claim that ‘A non-contradictable theory is not a true theory’ (Conte, 2016, p. 25.) In this regard, a further example the author gives is from the Gospel of John, in relation to the notion of testimony: a testimony given to oneself is not a true testimony (John, 5:31, 8:13.) The context of the passage refers to a Jesus’ speech responding to accusations of violating norms (that of the Sabbath) and the relationship between the persons of the Trinity (the Son and the Father), including in relation to Jesus’ origin as sent by the Father (John 5:30).

The problem is thus the foundation of the status of faith precisely in relation to the difference between the status of faith in an utterance and an event, and its interpretation (John 5: 46 “If you believed Moses, you would believe me, for he wrote about me” – “εἰ γὰρ ἐπιστεύετε Μωϋσεῖ, ἐπιστεύετε ἂν ἐμοί, περὶ γὰρ ἐμοῦ ἐκεῖνος ἔγραψεν”; John 5: 47 “But if you do not believe what he wrote, how will you believe what I say?”; “εἰ δὲ τοῖς ἐκείνου γράμμασιν οὐ πιστεύετε, πῶς τοῖς ἐμοῖς ῥήμασιν πιστεύσετε”).

The reference to Jesus’ self-testimony cited by Conte (John 5:31 “If I testify about myself, my testimony is not true.”<sup>2</sup> – Se fossi io a render testimonianza a me stesso, la mia testimonianza non sarebbe vera; – “Ἐὰν ἐγὼ μαρτυρῶ περὶ ἐμαυτοῦ, ἡ μαρτυρία μου οὐκ ἔστιν ἀληθής”) in the discourse is referred to John’s testimony, which Jesus knows to be true, and is referred to the truth of his person (truth *de re*) through the speech of another (John 5:32-33: “There is another who testifies on my behalf, and I know that his testimony to me is true. You sent messengers to John, and he testified to the truth.” – “ἄλλος ἐστὶν ὁ μαρτυρῶν περὶ ἐμοῦ, καὶ οἶδα ὅτι ἀληθής ἐστὶν ἡ μαρτυρία ἣν μαρτυρεῖ περὶ ἐμοῦ. ὑμεῖς ἀπεστάλκατε πρὸς Ἰωάννην, καὶ μεμαρτύρηκε τῇ ἀληθείᾳ”). The Gospel then specifies that the testimony to the truth borne by John is exceeded by the testimony that the works done by Jesus (John 5:36, “The works that the Father has given to me to complete” – “ἀτὰ τὰ ἔργα ἃ ποιῶ”).<sup>3</sup> The same context of the self-reference of truth characterizes the passage from John 8:13 recalled by Conte: “Then the Pharisees said to him, “You are testifying on your own behalf, your testimony is not valid.”<sup>4</sup> – “Gli dissero allora i farisei: “Tu dai testimonianza di te stesso; la tua testimonianza non è vera” – “εἶπον οὖν αὐτῷ οἱ Φαρισαῖοι· Σὺ περὶ σεαυτοῦ μαρτυρεῖς· ἡ μαρτυρία σου οὐκ ἔστιν ἀληθής”.

Here within the concept of *de re* truth is introduced the concept of the truth of an event, particularly of a person’s life as forms of *de re* truth, announced in the next chapter of John’s Gospel, to which we will return in the conclusion of the article.<sup>5</sup> I might say that here Jesus’

1 Conte within the concept of ‘*de re* truth’ distinguishes between eidological truth (defined as a correspondence relationship to an εἶδος) and idiological truth (defined as a identity relationship with an individual entity) (Conte, 2016, p. 32).

2 (All English translations: NRSV Catholic Edition Bible; all Italian translations: CEI edition, Vatican.va, Greek Text: Nestle-Aland).

3 Cf. footnote 4.

4 Here ‘valid’ translates the adjective ‘true’. The word ‘truth’ appears in Italian translation and original Greek version in John 5:33 precisely in reference to the difference between the true testimony of a man (John the Baptist) and the true testimony of Jesus based on God’s truth. In the dogma of the dual human and divine nature of Christ, we could say, Conte’s eidological truth and idiological truth coincide. If even the Italian philosopher does not take the problem into account explicitly, we cannot avoid the coincidence – even if only ironically posed or with secularizing intent – between the threefold Contian theory of philosophical truth and the problem of the Trinity and thus the dual nature of Jesus Christ. Therefore, let me point to the theological character as implicitly present in Conte’s theory of truth.

5 John 14:6 “Jesus said to him, ‘I am the way and the truth, and the life. No one comes to the Father except through



contestation of the law, from an epistemological point of view, implies the change of context, as we shall see later in Bartley's theory (John 8:14, "Jesus answered, "Even if I do testify on my own behalf, my testimony is valid<sup>6</sup> because I know where I came from and where I am going, but you do not know where I come from or where I am going" – "Gesù rispose loro: "Anche se io do testimonianza di me stesso, la mia testimonianza è vera, perché so da dove sono venuto e dove vado. Voi invece non sapete da dove vengo o dove vado" – "ἀπεκρίθη Ἰησοῦς καὶ εἶπεν αὐτοῖς· Ἐγὼ εἶμι μαρτυρῶ περὶ ἐμαυτοῦ, ἀληθὴς ἐστὶν ἡ μαρτυρία μου, ὅτι οἶδα πόθεν ἦλθον καὶ ποῦ ὑπάγω· ὑμεῖς δὲ οὐκ οἴδατε πόθεν ἔρχομαι ἢ ποῦ ὑπάγω").

If Conte distinguishes between two species of *de re* truth – eidological (*eidologica*) truth (correspondence to an εἶδος) and idiological (*idiologica*) truth (identity with respect to an εἶδος' i.e., "proper," "individual," "particular") – he specifies how threefold the philosophical notion of truth is, referring to a quote from Aurelius Augustine's *De trinitate* ("Tres vidi et unum adoravit, 2:4). The philosophical problem of reference to the trinity of the theory of truth points to the implicit theological perception of the problem of Christ's dual human and divine nature – and the complexity of the elaboration of Trinitarian dogma – from Nicaea to Chalcedon (Sesboüé & Wolinski, 1996; Cozzi, 2009). Once again: the reference to idiological truth leads to the conception of truth as an *individual event* to be understood phenomenologically<sup>7</sup> (historical perspective: the revolution for Marxists, Badiou, 2003; religious perspective: the incarnation of God for Christians, Sequeri, 1996).

Finally, in his analysis of eidological truth, the deontic logician, in note, differentiates between the adjective 'ἀληθής' and the adjective 'ἀληθινός,' referring to *Symbolum Nicaenum*: "In ancient Greek, (i) the adjective for "vero de dicto" is 'ἀληθής'; (ii) the adjective for "eidologically-true" is 'ἀληθινός'. For example, in *Symbolum nicaenum* it is 'ἀληθινός' [and not 'ἀληθής'] the adjective (translated as 'true') that appears (twice) in the passage in which it is predicated, of Jesus Christ: "true God from true God." (Conte, 2016, p. 30; DH, 1995, pp. 64-65).

In his analysis of idiological truth, Conte does not refer to the Gospels. However, to qualify the Trinitarian character of truth as a distinct genus in three species (*de dicto*, *eidologica*, *idiologica*) Conte refers to Augustine ("*Tres vidi et unum adoravit*"), specifying how "Tres vidi. But one is the truth. And one is the truth. (la verità *de dicto*) of every discourse on truth ("Veritas veritati non est adversa": Peter Abelard) (Conte, 2016, pp. 34-35).

And again, on the threefold character of the philosophy of truth: "One is truth; but triune is the philosophy of truth, a philosophy that is divided into three philosophies: (i) philosophy of truth *de dicto*; (ii) philosophy of eidological truth; (iii) philosophy of ideological truth." (Conte, 2016, p. 35). Can the Contian reference to the Trinity be understood as merely linguistic or etymological? It may help to show how the problem of the relationship between theology and epistemology is being analyzed in the twentieth-century context by epistemologists, philosophers of law, and theologians (Bartley, 1984; Robilant, 1994; 2008; Pannenberg, 1999). What, then, is the relationship between philosophy of truth and the Trinity? It seems possible to identify a relationship between idiological truth and Incarnation (as the truth of an event? The historical event of the Incarnation – in the metacontext<sup>8</sup> – Bartley, 1984 – of Christian

me." Gli disse Gesù: "Io sono la via, la verità e la vita. Nessuno viene al Padre se non per mezzo di me" – "λέγει αὐτῷ ὁ Ἰησοῦς· Ἐγὼ εἶμι ἡ ὁδὸς καὶ ἡ ἀλήθεια καὶ ἡ ζωὴ· οὐδεὶς ἔρχεται πρὸς τὸν πατέρα εἰ μὴ δι' ἐμοῦ."

<sup>6</sup> Here again, 'valid' translates the adjective 'true'.

<sup>7</sup> "*Tres vidi*. Three are the phenomena that I saw..." (Conte, 2016, p. 35).

<sup>8</sup> For the notion of metacontext in relation to Bartley's pan-criticism and religious thought (Bartley, 1984). For Bartley three meta-contexts can be identified in the history of thought: the Western tradition of justificationism; the Eastern tradition of non-attachment and the tradition of post-popperian non-dogmatic criticism, which Bartley calls 'pancritical rationalism' or 'comprehensively critical rationalism'. PR or CCR extends criticism to the notion of

belief?) Question to which it certainly seems impossible to provide an answer, but which deserves at least to be posed as a question, not least because the next chapter Conte discusses is devoted precisely to the notion of faith.

First, Conte analyzes the etymologies of the nexus between truth and fides/faith in many languages (Conte, 2016, pp. 39-43), including Hebrew. Following Balthasar, the usual translation the concept of *emeth*, *emuna* is ἀλήθεια and ἀληθινός: “occasionally, δικαιοσύνη and δίκαιος etc., as well as πίστις, πιστός (worthy of confidence), are used instead. Its employment in legal language shows a certain kernel in its meaning: ‘de facto state of things’, ‘state of affairs with legal validity’, and thus simply ‘truth’” (Balthasar, 1991, p. 173). The biblical indication, pointed out by von Balthasar and taken up by Sequeri, concerns the terminological foundation of the original proximity of truth, justice, and faith and how this foundation takes on a constitutive value in legal experience. The intercross of biblical meanings (truth, justice, faith), indicated by von Balthasar and taken up by Sequeri, concerns the terminological foundation of the original proximity of truth, justice, and faith and how this foundation takes on a constitutive value of legal experience in conceiving an affective turn into metaphysics (Sequeri, 2020).

Conte remarks the non-equivalence of semantic truth and ontic truth (Conte, 2016, p. 54). The deontic logician notes that in the conception of truth as correspondence, “Semantic truth has as its condition (as a necessary and sufficient condition) ontic truth.” (Conte, 2016, p. 54). However, the identification of such a relationship “excludes the equivalence of the two truths, since every condition relationship (between a conditioner and a conditioned) is a relationship between two terms, a relationship that presupposes the distinction of the terms of it (precisely because it is a relationship between two terms)” (Conte, 2016, p. 55). He bases this non-equivalence between semantic and ontic on two empirical evidences. ‘True’ in the semantic sense predicates utterances, true in the ontic sense predicates of other than utterances (Conte, 2016, pp. 55-56). Precisely in relation to the second meaning Conte juxtaposes Popper’s falsificationist epistemology with *Symbolun Nicaenum* as examples of ontic truth. Examples of ontic truth are the two propositions “a non-falsifiable theory is not a true scientific theory”; “it is in the ontic sense that the adjective ‘verus’ appears within the syntagma ‘verus Deus de vero Deo’ ... confirmed by the (Greek) text of *Symbolum Nicaenum*”. (Conte, 2016, pp. 56-57).<sup>9</sup> Conte inserts the example of true in the ontic sense as an utterance about an object, and not as an example of an utterance about an event, so the utterance “The invention of zero was a real revolution in the history of mathematics” is chosen.

However, it is not difficult to see that the enunciate “Deum verum de Deo Vero” refers to an event that is the object of faith: “Credimus ... in unum Dominum nostrum Iesum Christum Filium Dei, natum ex Patre unigenitum, hoc est de substantia Patris, Deum ex Deo, lumen ex lumine, Deum verum de Deo vero, natum non factum, unius substantiae cum Patre (quod graece dicunt homousion), per quem omnia facta sunt, quae in caelo et in terra, qui propter nostra salutem descendit, incarnatus est et homo factus est ...”

It is evident from the text of *Symbolum Nicaenum* how the statement, within the Christian context, refers to the event of incarnation: God true from God true insofar as born, incarnate. What is the condition of truth as an event? What is the condition of truth as (an utterance) event? According to Conte, ontic truth concerns an enunciate about an event. Moreover, there

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criticism itself, avoiding to propose a dogmatic perspective of Popperian falsificationism: PR reaches Hayek’s extended order that underlies the theory of institutions and of unintended consequences of human action (Bartley, 1984; Radnitzky & Bartley, 1987; Hayek, 1967, 1988, Ricossa & Robilant, 1985; Robilant, 1975; 2008).

9 Conte recalls the distinction already indicated between the adjective ‘ἀληθινός’ and ‘ἀληθής’.

are three conditions for the epistemological legitimacy of a thesis: Waismann's verifiability, Popper's falsifiability, and Conte's contradictibility, to be understood as ordered from the 'strongest' to the 'weakest'. We will return to this epistemological point later, limiting to observe that the introduction of a conception such as truth as an event problematizes this shift from a stronger to a weaker form. Conte analyzes the different meanings of 'true' by articulating the connection between an event, its proof, and belief in the event.<sup>10</sup>

The current debate between epistemology and theology reopens a conception of truth that is based on a theory capable of overcoming the modern distinction between reason and faith (Sequeri, 1996) in a context in which verificationist theory is challenged by Popperian falsificationism both on the epistemological level (Pannenberg, 1999; Bartley, 1984) and on the level of legal science (Robilant, 1968; 1975; 1984; 2008; Heritier, 2009.)

Conte defines the triune theory of truth by analyzing the relations between *de dicto* truth and eidological truth as different forms of correspondence truth (to an utterance and an *eidōs*, respectively), while idiological truth refers not to a correspondence relation but to an identity relation. Being unable to consider relationship between Conte's conception of truth and the theological debate on the Trinity in a paper, what I argue is that would not be without interest a comparison between the formulation of Christian dogma, as formalized in the councils of Nicaea, Constantinople, and Chalcedon, and the Contian conception of truth. The complex theological debate on the dual nature, human and divine, of Christ (Sesboüé & Wolinski, 1996; Cozzi, 2009; Greshake, 2000; Sequeri, 2023) differently relates the notion of correspondence and that of identity. To indicate just the topic, the phenomenological understanding of Jesus' faith in the Father (Canobbio, 2000; Sequeri, 1996) escapes the distinction between correspondence and identity theory of truth, as it is characterized at the same time as both correspondence and identity. The brief itinerary that follows indicates how the emergence of recent debates can equally be related, if only in an embryonic and indicative way, to the issue of Christ's dual nature.

### 3. The Dual Character Concepts' Theory

The question to start from is: could the concept of *de re* truth in relation to Christological debates can illuminate the concept of 'dual character concepts' (DCCs)? Reuter points out that DCCs are concepts in which the descriptive and normative dimensions (Bertera, 2023; Di Lucia & Passerini Glazel, 2023; Ricca, 2023) are related but independent (Reuter, 2019), like the concept of artist or scientist: what is it a true artist or scientist? What is the meaning of 'true' here? Independent means that a person can fulfil either of these two dimensions (descriptive and normative) without satisfying the other. The topic is reminiscent of the theological disputes concerning the dual nature, human and divine, of Christ from the council of Nicaea to the council of Caledonia and beyond: are they to be considered separate or related, and in what way related? (Bertuletti et al., 1998; Angelini et al., 2007; DH 1995). Does the concept of God

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10 The reference to the Gospels does not stop here. An entire section is devoted to the Gospel of John concerning the examples concerning the distinction between truth *de dicto* (in which the adjective 'true' is predicated of what is said in affirming or testifying) and truth *de actu* (in which the adjective 'true' is predicated of the act of saying, such as in affirming or testifying). Concerning truth *de dictum* Conte refers to John 5:32, 8:14 (just quoted) and 21:24 in which the dictum that is qualified as true is the testimony given "This is the disciple who is testifying to these things and has written them, and we know that his testimonia is true. - Questi è il discepolo che testimonia queste cose e le ha scritte, e noi sappiamo che la sua testimonianza è vera - Οὗτός ἐστιν ὁ μαθητῆς ὁ μαρτυρῶν περὶ τούτων καὶ ὁ γράψας ταῦτα, καὶ οἶδαμεν ὅτι ἀληθῆς αὐτοῦ ἡ μαρτυρία ἐστίν. Concerning truth *de actu* Conte refers to John 5:32, 8:14 (just quoted) and 21:24 in which the dictum that is qualified as true is the testimony given: This is the disciple who is testifying to these things and has written them, and we know that his testimonia is true. - Questi è il discepolo che testimonia queste cose e le ha scritte, e noi sappiamo che la sua testimonianza è vera - Οὗτός ἐστιν ὁ μαθητῆς ὁ μαρτυρῶν περὶ τούτων καὶ ὁ γράψας ταῦτα, καὶ οἶδαμεν ὅτι ἀληθῆς αὐτοῦ ἡ μαρτυρία ἐστίν.

imply the dual nature of human and divine? Obviously not, since different religions have different concepts (descriptive and normative) of God. What theory of truth (ontological, phenomenological) does the concept of true religion presuppose?

I will refer to the well-known Husserlian observation that a true warrior should be brave (Heritier, 2023) by trying to replace the theme ‘warrior’ with that of ‘God’ and formulating the question whether a true God should be human, with specific reference to *Symbolum Nicaenum*. Let us begin with a brief analysis of what emerges in relation to the notion of faith in the discussion regarding DCCs. According to Pinal and Reuter,

Knobe, Prasada, and Newman (2013) present a series of original experiments designed to show that concepts expressed by terms such as artist and scientist have two independent criteria for categorization, one of which is inherently normative. They call this unique class of concepts ‘dual-character concepts’ (DCC)” (Pinal & Reuter, 2017, p. 1).

Knobe, Prasada, and Newman imagine two people, the former a physics professor who clings dogmatically against any empirical evidence, the latter an ordinary person who has never been trained in formal experimental methods but approaches everything by revising her beliefs in light of empirical evidence. Note that, by following the perspective, the concept of empirical evidence in the discourse appears self-evident and not falsifiable or contradictable. According to the authors, it makes sense to say that the former is clearly a scientist, but also that she is not a scientist at all. Equally, that the second is clearly not a scientist, but also that it makes sense to qualify him truly as a scientist (Knobe, Prasada & Newman, 2013, p. 242). The two people have two different characterizations of being a ‘scientist’ “one in terms of concrete activities (conducting experiments, formulating theories, etc.), the other in terms of more abstract values (an impartial quest for empirical truths)” (Knobe, Prasada & Newman, 2013, pp. 242-243).

This is reminiscent, from a legal point of view, of St. Paul’s famous statement, considered to be the founder of natural law according to which. In fact,

For it is not those who hear the law who are just in the sight of God; rather, those who observe the law will be justified. For when the Gentiles who do not have the law by nature observe the prescriptions of the law, they are a law for themselves even though they do not have the law – οὐ γὰρ οἱ ἀκροαταὶ νόμου δίκαιοι παρὰ τῷ θεῷ, ἀλλ’ οἱ ποιηταὶ νόμου δικαιοθήσονται. ὅταν γὰρ ἔθνη τὰ μὴ νόμον ἔχοντα φύσει τὰ τοῦ νόμου ποιῶσιν, οὗτοι νόμον μὴ ἔχοντες ἑαυτοῖς εἰσὶν νόμοις· (Rm. 2:13-14).

Here, like in the case of human-divine nature of Christ, do we have some kind of unprecedented DCCs case, in which ‘true’ Jews (or ‘true’ jurists, the *jusnaturalists*) are those who put the law into practice by nature (whatever is meant by ‘nature’), just like the scientist who relies on empirical evidence (whatever empirical evidence is in everyday life)? They are ideally contrasted, in the Epistle to the Romans, with the ‘true’ Jew (or the ‘true’ positivist jurist): who are identifiable instead “according to the law.” Here the descriptive and normative parts of the definitions refer not to a theological concept but to a legal one, or perhaps precisely to the distinction between the legal and theological spheres, which are considered not independent.

The problem concerns exactly the relationship that exists between “abstract values” (in the case: legal and moral) and a “set of concrete features”: i.e., the two elements that concern the definition of dual character concepts according to the three authors (Knobe, Prasada

& Newman, 2013, p. 243). In fact, DCCs involve the fact that “each dual character concept contains two different ways of characterizing members of the category to which it applies and that these two ways of characterizing members of the category stand in a particular type of relationship” (Knobe, Prasada & Newman, 2013, p. 243): regarding the list of features and the abstract value that the concept aims to realize. The difference between natural kind concepts and DCCs (Keil, 1992, pp. 36-42, 588-589), following the three authors, is that in natural kind concepts the observable features are caused by or dependent on a ‘hidden essence’; in DCCs the concrete features realize the abstract values (Knobe, Prasada & Newman, 2013, p. 244, 255). Moreover, the natural kind concepts and DCCs seem to be but just two of the many possibilities that need to be integrated within a more general account of conceptual representation. Thus, the question about the dual nature of Christ could be made to fall within the scheme of natural kinds if it moves in theology from an ontological juxtaposition? Or, a hypothesis yet to be explored, within the framework of DCCs, if it moves from an anthropological juxtaposition to the Christology proper to twentieth-century theology, referring it to a conception of truth as an event, as we shall see synthetically?

Or does the inclusion of theological examples, as in the case of the interpretation provided of Conte’s theory of truth (triune, but in a different sense from the claimed truth of the Christian Trinity) imply a different notion of truth (truth as an event)? Far from answering this question, I will limit myself in the article to something much more circumscribed.

Within the bibliography that develops the problem concerning DCCs in the context of gender studies (Leslie 2015) or in relation to the social context (Del Pinal & Reuter, 2017; Reuter, 2019), I will only analyze the reference to the concept of father in one article (Del Pinal & Reuter, 2015), interpreting it in a theological sense and referring it to the relationship between Father and Son in the Christian Trinity.

Following Del Pinal and Reuter, Knobe, Prasada, and Newman (2013) present DCCs as the concepts (expressed by terms such as artist and scientist) that have two independent criteria for categorization, one of which is inherently normative. The two authors imagine a different scenario:

John has two biological children. He materially provides them with all their needs, including food, proper schooling, and some nice toys. However, John does not think doing so is his duty; in fact, he is only a good father because he thinks that his behavior will advance his career as a politician. Is John really a father? (Del Pinal & Reuter, 2015, p. 554)

Let us try to place the question in the (imaginary or real) context of the Christian religion as a specific area of social cognition, reformulating the scenario theologically with the terms placed in parentheses:

- (1) a. There is a sense in which John (*God*) is clearly a father (*of Jesus*).
- b. However, if you think about what it really means to be a father, you would have to say that John (*God*) is not a true father after all (*of Jesus*) (Del Pinal & Reuter, 2015, p. 554)

Del Pinal and Reuter imagine a different scenario: John’s career foundered; he abandoned his two kids. However, John’s brother, Mark, who has no biological children, decided to care for the kids, but, since is not as materially successful as John he can’t provide the kids with some of their needs. So, the question will come back:

Mark really loves the kids and works very hard to make sure they have everything they

need. Is Mark really a father? In response, consider whether you agree with (2-a) and (2-b):

(2) a. There is a sense in which Mark is clearly not a father. b. However, if you think about what it really means to be a father, you would have to say that Mark is a true father after all (Del Pinal & Reuter, 2015, p. 554).

Within their vision, Del Pinal and Reuter, give central importance to commitment. Identifying in this trait a characteristic proper to the non-predictability of human behavior:

Given these basic properties of human behavior, information about the relevant commitments is essential to make useful categorizations and predictions. In particular, it is useful to know not only whether Jack is good or bad at something but also whether he is committed to it (Del Pinal & Reuter, 2017, p 494).

With reference to the theory presented by Leslie (2015), that proposes a specific view of the content of the normative dimension, focusing on the case of social role terms:

Leslie agrees that the normative dimension of DCCs does not represent the usual or even typical function of the corresponding social roles. For example, the normative dimension of scientist does not represent superficial functions such as gathering data, looking into microscopes, etc. What is represented is more fundamental: it is more like an idealization of the basic function of the role (Del Pinal & Reuter, 2017, p. 479).

Del Pinal and Reuter argue, unlike Leslie, that to meet the normative dimension instead one always relates to the notion of a nonbiological father:

what matters most is not whether someone actually fulfills the basic function to some non-trivial degree, but rather whether someone is committed to fulfill it. Consider again the example of a non-biological father. From this perspective, what made us accept that Mark is a true father despite not being a biological father and sometimes failing to fully provide for the kids is his sincere and constant commitment to care for them. We should distinguish, then, between the property of actually fulfilling the basic function of a social role from that of being committed to fulfill it (Del Pinal & Reuter, 2017, pp. 479-480).

In the case of the (narrative referring to) Christian God, can the Father be considered a (true) good Father? Or is the concept of Father used metaphorically, as it were, to indicate something about the very character of the relationship between correspondence and identity (in Contian terms, between *de re* eidological truth and *de re* idiological truth)?

It is precisely this notion of commitment that arose in the analysis of the DCCs that interests me and brings me back to understanding the theological references Conte makes in *Adelaster* in the direction of the need to link truth and faith. Conte in fact proposes a principle of contradictibility alongside the Popperian principle of falsifiability, referring to the problem of the nexus between faith and truth in a primarily etymological sense. In contrast, the nexus between faith and truth appears central to defining the meaning of the Nicene symbol that posits the equivalence between “true God” and “true man” referring to Jesus, in Christian theology.

#### **4. Trial and Error: A Theological Interpretation of Conte’s Theory of Truth in *Adelaster***

Bartley's own position of generalizing the principle of falsifiability in pan-critical rationalism<sup>11</sup> (Robilant, 1984, pp. 33-50; Heritier, 2009, pp. 34-44)<sup>12</sup> focuses on critiquing the concept of commitment in Protestant theology (Bartley, 1984). In Bartley's vision, alongside Popper's falsifiability principle aimed at demarcating scientific to non-scientific beliefs, lies the revisability criterion, useful to demarcate "those beliefs that are revisable within the argument situation from those that are not" (Bartley, 1984, p. 135).<sup>13</sup> Bartley distinguishes here between the kind of commitment required by logic and by Christianity. Within the appendix 1, "A metacontext for rationality", Bartley identifies only three different contexts: 1) the metacontext of true belief – or justification philosophy; 2) the oriental metacontext of nonattachment; 3) The metacontext of fallibilism, or of pancritical rationalism (Bartley, 1984, p. 172), noting how most Western philosophies of science as much philosophies of religion – are justificationist: "they sponsor justificationist contexts of true beliefs" (Bartley, 1984, p. 173). They are concerned with how "to justify, verify, confirm, make firmer, strengthen, validate, vindicate, make certain, show to be certain, make acceptable, probablify, cause to survive, *defend* particular contexts and position" (Bartley, 1984, p. 173), ending up (both philosophies of science and of religion) in commitment and in identification. The reference to the context of Del Pinal and Reuter encounters the same problem: experiment and faith, empiricism and religion, are two meta-contexts, and the attempt I am doing here is to move from one to the other: from the notion of (human) father to (divine) father. In fact, the same problem about the 'truth' of Jesus' father arises in the Gospels: in one sense Jesus' Father is a true non-biological Father (Jesus being called in *Symbolum niceanum* "son of God and begotten, not created"), but in another sense not a true Father (in the metacontext of Christianity) in that he "allows" the Son to be killed by man. The notion of DCCs opens up a linguistic quest that moves not from the identification of essences, but moves from the articulation of concrete characters that we can say in many ways. Twentieth-century Christology has thought of the story of Jesus as an anthropology (Pannenberg, 1976; 1985)<sup>14</sup>, starting from a conception of truth as an event (Bertuletti et al., 1998; Angelini et al., 2007; Colombo et al., 1988). As Angelini points out, critical rationalism appears to be a morality of thought in general and of scientific work, which leaves room for decision in which the criterion of demarcation appears as a proposal for agreement or convention (Colombo et al., 1988, p. 63). Pancritical rationalism accurately indicates, thus, how the meta-context of criticism is open, on the basis of the exercise of argumentative criticism itself, to renouncing criticism as a justification of knowledge. This is only a hypothesis, which nevertheless shows how the space of faith approaches that of truth. The Contian principle of contradictibility itself can be read in this sense, although Conte believes that there is a hierarchy between the principle of verification, falsification and contradictibility. Contian generalization of the principle of falsification in contradictibility principle move in a revision of the concept of truth relevant to legal thought: the concept of truth is understood in a rhetorical sense, that is, related to

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11 See footnote 8.

12 Robilant introduced in the 1970s a criticism to Bobbio and Kelsen's positivist conception of law by referring to Popper's critique of verificationism (Robilant 1968, 1975). He proposed replacing the notion of theory with that of figure, then developed from its epistemological matrix to a hermeneutical and ultimately aesthetic perspective (Robilant, 2008, Heritier, 2009; 2012).

13 On theories of rationality and pan-critical rationalism (PCR), see Bartley (1987).

14 The comparison Pannenberg made in his volume on anthropology from a theological perspective is perhaps still the most significant systematic dialogue with science, including the thought of Popper, Albert, Bartley and culture of his time, parallel to the Ricoeur's philosophical one. The initial attempt to read DCCs theory theologically is based in this dialogical methodology.

the form of judgment in a case. Traditionally, rhetorical truth is understood as a form of truth belonging to the realm of verisimilar (Perelman & Olbrechts-Tyteca 1969), recent studies show how a different epistemological conception of truth are relevant (Cavalla 1996; Patterson, 1996; Manzin, 2014); in this article I link implicitly to this rehabilitation of rhetorical truth in its philosophical implications, toward a conception of truth as an event.

Connecting DCCS research to a theory of truth as an event seems to me an interesting goal, capable of extending its descriptive and normative meaning in terms of a full phenomenological understanding. The very dual structure of DCCs, opposing the form of natural kind concepts, moves from a set of concrete elements that embody abstract ethical values in defining a concrete character, as in the example of rock music (Knobe, Prasada & Newman, 2013, p. 244). Recognizing the centrality of the commitment to fulfill the idealized basic function associated with the social role leads to the problem of the social context and theoretical meta-contexts indicated by Bartley.

It thus opens up, the space of a quest in which truth can be considered as event-related, in which faith and reason refer to a free making of the divine concept (Christology as anthropology), in which the divine nature of Christ must be understood from the concreteness of the incarnation and the “phenomenology of Jesus” (Bertuletti et al., 1998; Angelini et al., 2007). All truth requires a decision, an act of entrustment concerning the choice of a meta-context: in this, the reopening of the nexus between truth and faith, between reason and faith, allows us to think of a conception of truth as an event. Pierangelo Sequeri’s theory of truth rereads the Christian tradition in a phenomenological direction (Sequeri, 1996, pp. 317-554; Sequeri, 2016; 2023 – regarding affective turn in methaphysics) entering into a dialogue with theories such as DCCs that may prove fruitful. A theory of truth as an event thus seems to extend its scope to both the realm of law and religion.

Some introductory remarks for an interdisciplinary research project concerning truth can be undertaken, without construct a comprehensive discourse.

The question of the theory of truth in legal thought is thus very far from that envisaged by the Hobbesian dictum *Auctoritas non veritas facit legem* (indicated at the third point of the famous Schmittian ‘Hobbes crystal’, Schmitt, 2005). In Conte’s perspective, also far removed from a truthless view of law or ethics such as Scarpelli’s (Scarpelli, 1982), Pintore’s (Pintore, 1996), the theological problem of truth in relation to faith and witness presents itself as a philosophical problem that can no longer be evaded. The configuration of the legal system as referable to the ontic problem of truth is presented in entirely different theories, such as Patterson’s theory of truth, which recovers Quine’s “holistic” perspective in epistemology (Patterson, 1996, p. 161) and the rhetorical vision that Manzin provides (Manzin, 2014, pp. 47-80), based on Cavalla’s theory of forgotten truth.<sup>15</sup>

The aforementioned theory of truth as an event stems from the recognition of the original proximity between faith, justice and truth, noted by Balthasar in the Hebrew term *emunah*. The proposal of the “phenomenology of Jesus” establishes a “strict correspondence between the form of the institution of Christological faith and the process of constitution of the Gospel scripture” (Bertuletti, in Colombo et al. 1998, p. 241), not indifferent to the truthful status of the linguistic form of the testimony (the previously mentioned conclusion of the Gospel text John, 24: 17). Faith, as an anthropological relation is constitutive of truth: in the structure of

## 5. Elements for a Theory of Truth as an Event

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<sup>15</sup> The tripartition between the principle of verifiability, falsifiability and contradictibility formulated by Conte was published in the volume edited by Cavalla (Cavalla, 2007.) Manzin’s (Manzin, 2014) rhetorical theory also moves from a conception of rhetorical truth referable to individual events.



the testimony, but also in the reference of the primacy of the “thing” of the text (Bertuletti, in Colombo et al. 1998, p. 242). Phenomenology of Jesus means “the founding role of Jesus’ effectivity *vis-à-vis* Christological faith” (Bertuletti, in Colombo et al. 1998, p. 242) where ‘effectivity’ means “the identity of the theological truth of Jesus and the Christological truth of God” (Bertuletti, in Colombo et al. 1998, p. 242), i.e., the *eidōs* of Jesus, the inseparability of his truth (as an event) from the history that instituted it (as specified in *Symbolum niceanum*). The formula of Jesus’ *eidōs* is meant to signal “in order to define the status of the original evidence of consciousness, of the impossibility of separating the question of meaning from that of its genesis” (Bertuletti, in Colombo et al. 1998, p. 244).

The passive dimension of consciousness, facticity following Heidegger, is not only the external condition, but the very matrix of the act of consciousness: the terminology of *eidōs* says “the immanence of truth in the process of sense, not separable from the process, because genesis is constitutive of sense as the ‘meaning’ of truth” (Bertuletti, in Colombo et al. 1998, p. 244):

The *eidōs* resists resolution in ideality because it is not separable from the facticity that is the condition and measure of its reality. If one can bracket the judgment of existence (in the naturalistic-objectivistic sense which is already an abstraction), one cannot bracket actual existence, since this is the inescapable locus of truth. Husserlian phenomenology honors this requirement better than Heideggerian thought of ontological difference, because of the hierarchizing tendency this entails that leads it to resolve the ontic in its ontological truth. ‘Meaning’ is not reducible to the ontic, because the act of consciousness is not external to truth.

Beyond Conte’s mere reference to the notion of faith, the original form of consciousness has the form of faith (“there is no recognition of truth except in the subject’s consent-trust on it as the truth of its own actual existence,” Bertuletti, in Colombo et al. 1998, 1998, p. 245.) The space of theology is to be thought of the genesis: as a condition of the form of freedom of consciousness constitutive of meaning. In this sense, the anthropological theory of faith “is the medium that makes it possible to justify the Christological singularity and its inseparability from the story of Jesus... the story of Jesus realizes the truth of God that it manifests... the truth of God is inseparable from the story of Jesus since the story of Jesus is constitutive of the truth of God (Bertuletti, in Colombo et al. 1998, p. 245.)

However, the *Symbolum Niceanum* recalled by Conte indicates this correspondence of truth and history with the original in the phenomenology of Jesus by specifying the form of truth as an event: “The *eidōs* of God revealed in Jesus is historical, since it is the *eidōs* of Jesus’ faith... faith is not external to the event of revelation, but is constitutive of its evidence” (Bertuletti, in Colombo et al. 1988, p. 245.)

According to Bertuletti, the relationship between consciousness and truth repeats the generative process indicated in *Symbolum Niceanum* (generated, not created), whereby Jesus’ faith is the irreplaceable medium of God’s truth. God’s truth, Sequeri observes, “is manifested in Jesus Christ, identifying itself precisely in that nondeductible event that is Jesus of Nazareth” (Sequeri, in Colombo et al., 1998, p. 245.)

The theory of truth as an event is produced as a theoretical evolution of *de re* truth in its ideological form: truth takes the form of identity with an individual entity, in the paradigmatic form of Jesus, whose relationship with the Father constitutes both a Christology and a ‘generative’ anthropology: “Have among yourselves the same attitude that is also yours in Christ Jesus – *Abbate in voi gli stessi sentimenti che furono in Cristo Gesù* – τούτο φρονεῖτε ἐν ὑμῖν ὁ καὶ ἐν Χριστῷ Ἰησοῦ (Phil., 2:5). The meaning of this reference to the sentiments of Jesus should not be understood as a mere imitation of Christ, but in reference to the ideological

relationship (Conte, 2016, p. 33) of the Father with the Son, of every parent with his children (Del Pinal & Reuter, 2105, p. 554), in the plural form of freedom related to the “human form”:

God’s attachment to generation. Here is the ultimate term of God’s ontological truth identified in the faith of Jesus, who unscrupulously puts one’s filial confidence in the *abba*’ to the test of God’s eternal openness to the generation of the beloved Son, in favor of every son of man... the weight of “sentimental entry” into the solemn argument of the incarnation/*kenosis* of Jesus’ “divine form” should perhaps be more adequately elaborated in systematic fashion. Indeed, it alludes to a mode of feeling in which the free detachment, immanent to every filial generation, toward the paternal origin is consummated (Sequeri, in Colombo et al. 1998, p. 245.)

The contribution of theology (of the Christology of Jesus’ faith) to the theory of truth does not then appear external to the anthropological dimension. The theory of truth as event takes the form of a development of the theory of truth *de re* in its idiological form (Conte, 2016), and considers freedom as the generative and original foundation that is available to every man. The overcoming of the model of the natural kind concept seems to follow, precisely in the use of the metaphor of the father, the development of twentieth-century Christology, which dissolves the eidetic form into an empirical generative departure, which moves from the concreteness of the experience of man’s feeling (the example of rock music in Knobe, Prasada & Newman, 2013, p. 244.) Every man can give a plural form to the exercise of his own plural freedom: no matter whether he is a believer or not. The theological model recovers this plurality by configuring a nexus between justice and truth that brings the human form of freedom back to the center of legal discourse, overcoming the metaphysical model and after the modern primacy of reason (observed in the shift from the principle of verification to the principle of falsification and contradictibility, finally to a theory of truth as an event.) It does not appear possible here to follow the path that leads Sequeri to a theory of truth as an *affective turn* relevant to the generative conception of justice (Sequeri, 1996, pp. 317-554; Sequeri, 2016; 2020: 2023). Conte’s reference to the Gospels cannot be interpreted as a mere casualness and a mere reference to the text, but as a coherent development of the problematization of the concept of logic truth. Interest in the DCCS proposal can help clarify theological issues through linguistic analysis; at the same time, the consideration of complexing theological issues does not appear irrelevant to the development of human language analysis. The references to biblical language found in Conte’s thought and referable to truth theory cannot be ascribed to a theory of truth as an event (such as the DCCS theory). At the same time, it seems to me that perhaps a reading moving in this direction is possible, moving from the common anthropological sphere of human language.

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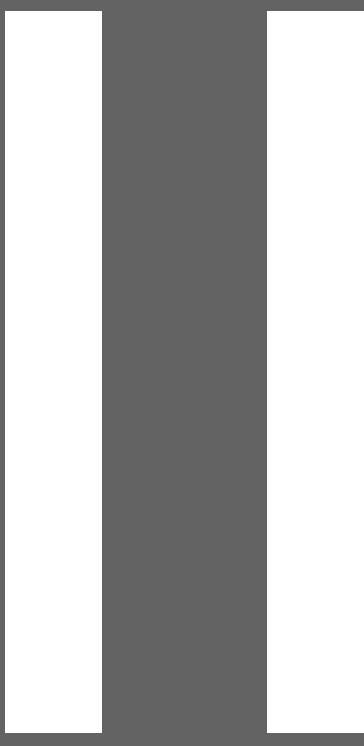
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# SECTION



# SECTION II

TRUTH OF THINGS AND THE NORMATIVE AND AXIOLOGICAL DIMENSIONS OF REALITY

*Anna Donise*  
A Stratified Theory of Value

*Venanzio Raspa*  
On Emotional Truth

*Sergei Talanker*  
No True Persuasive Definition Marginalizes?

*Carlos Morujão*  
Subjective Meanings and Normative Values in Alfred Schutz's Philosophy of Human Action

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# A STRATIFIED THEORY OF VALUE

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## *abstract*

*Contemporary reflection on the concept of value oscillates between positions that advocate absolutist realism and positions that propose total relativism. The present paper aims to distance itself from these two ways of reading the topic, rejecting any monolithic conception, and proposing a stratified theory of value. Beginning with an analysis of values that differentiates them from both “goods” and “valuations,” the author outlines an understanding of value that must be investigated in its multiple, interconnected layers. The stratification starts from the role of the emotional sphere and comes down to a formal and absolute conception of the concept. The goal of the paper is to outline the different levels of validity of each proposed layer, which must be recognized and differentiated, with the aim of also capturing the difficulties and ambiguities that characterize the transition from one level to another.*

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## *keywords*

*values, stratified theory of value, goods, valuations, tertiary qualities*



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Contemporary reflection on the concept of value oscillates between an ungrounded realism that conceals an implicit or explicit reference to religious faith on the one hand, and a subjectivism that quickly leads to relativism on the other. However, the attempt to overcome these two ways of reading value encounters numerous obstacles, to the point that some critics claim that value should be relegated to sociological, historical or psychological analysis, but can hardly be grounded in a philosophy that wants to call itself rigorous.

It cannot be denied that reflection on value has always been characterised by great conceptual difficulty. Indeed, the term is used with very different meanings and its semantic field tends to constantly widen or shift even in investigations that attempt to address it analytically. In the following pages, I will begin by outlining some differences within the conceptual nebula of 'value', separating *values* as such from two closely related concepts: 'goods' and 'valuations'. Next, I will look into how we relate to values. Finally, my goal will be to outline a stratified theory of value that allows for different levels of validity to be recognised. Stratification will also help to understand this concept through the difficulties and ambiguities involved in moving from one level to another.

### **1. The Economic Origin of 'Value'**

Since its origin, the concept of 'value' has been linked to the economic sphere, as rendered by the late Latin form *valor*; in particular, this term indicates the appreciation of a good by a person using it. Over time, appreciation has lost its exclusively economic meaning to refer also to other spheres such as moral dignity or beauty; yet this does not detract from the original and fundamental connection between valuable and useful. The term 'value' was thus born with a strong economic imprint. It is no coincidence that, even at the beginning of the 20th century, many philosophical dictionaries did not contain the entry 'value' – the latter, though, was always present in economic ones.<sup>1</sup>

In its substantive meaning, the concept thus established itself relatively late in the philosophical debate and originated first and foremost in the 19th-century revival of the Kantian distinction between being and ought, which was translated into an autonomous reflection on 'being of value'. Reflecting on what is valuable means reflecting on a reality that does not end in the physical, natural, quantitative world; as a consequence of this shift,

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1 Cf. e.g. the *Nouveau Dictionnaire d'Économie Politique*, edited by Léon Say and published between 1889 and 1892.

in the early 20th century, the need was felt to introduce the term *axiology*,<sup>2</sup> deriving from the Greek *axios* (valiant, worthy), as a synonym for ‘general theory of values’. From this perspective, it is clear that the first philosophical reflections on the concept of value contained no identification between value and moral reflection. On the contrary, the values under investigation also included truth, beauty or happiness (Rickert, 1921).

The specificity of the modern concept of value, therefore, lies precisely in the fact that it has taken on an autonomous meaning with respect to both the real thing being appreciated and the subjective act of appreciation. The moment one begins to speak of value as the ‘being valid’ (cf. Lotze, 1874) of reality, one seeks to differentiate the validity of something from the something in question. We thus begin to understand the first fundamental distinction, that between values and actual ‘goods’. In fact, the concept of value cannot be identified with an existing object; this can be defined as a good, i.e. an existing object that *has* a value, but *is not* a value.

As von Wright argued by highlighting a linguistic misunderstanding dense with substantial consequences: “as a joke, I would like to found a worldwide ‘purist’ movement whose aim would be to eliminate the term ‘value’ from current usage whenever it is meant to denote ‘goods’” (von Wright, 2003, p. 14). It is clear that there is a strong connection between goods and values, but a complete identification between the two terms is impossible. If a certain theorem is true, it does not mean that it can be identified with truth as such, in the same way that if a painting is beautiful, it does not mean that it can be identified with beauty in general. Truth or beauty are values, and as such can never find full realisation in any real object (or event).

If we then turn to the ethical dimension, identifying value with any one good would risk subordinating a person’s moral nature to the relationship between their nature and a world of goods posited as real. Doing so would base ethics on historical experience, thus leaving room for ethical relativism, and making any form of critique of the existing world of goods impossible (cf. De Monticelli, 2021, pp. 210ff.).

But, as mentioned at the beginning of this section, value cannot be equated with the act of the subject taking a position on value, i.e., with valuation. Indeed, values should never be confused with subjective acts of valuation: although values are always connected with valuations, they can never be *identified* with them (cf. Rickert, 1910/1999a, p. 12). Valuations are processes linked to a person’s individual psyche, whereas value has a validity that is independent of the individual psychic process. Returning to the example of a theorem, its truth value is independent of the psychic process by which individual subjects think or do not think about it.<sup>3</sup>

In this regard, the topic of value was part of the late 19th- and early 20th-century debate between logicists and psychologists, which boils down to the problem of the relationship between valid logical laws and subjectivity (cf. Lask, 1911). If a theorem or a logical law (such as, for example, the principle of noncontradiction) is only valid in relation to the individual subject that enunciates it, it becomes the product of a human psyche with its individual characteristics. This, of course, opens the door to scepticism and relativism. A psychologist commits a category error if they mistake a *genetic* analysis of the way a notion is psychologically formed, or a *description* of what happens in the mind of the person who

## 2. Goods, Valuations and Values

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2 Early writings in which this expression is found include: Lapie, 1902; von Hartmann, 1908; Urban, 1909.

3 In this perspective, granting validity to the theoretical value of a theorem does not mean asserting that such validity is recognised. A value can have validity without any act of valuation that takes a position with regard to it.

thinks of this notion, with the *objective* content of this notion (cf. Engel, 2014).<sup>4</sup> Clearly, individual valuation depends on psychological facts, whereas the validity or value of thoughts or actions is not psychological. If one claims that validity coincides with the content of mental representations, this is called psychologism.

A philosophical reflection on values must therefore be neither a ‘philosophy of the subjective act of valuation’, which risks turning into psychologism, nor a ‘philosophy of goods’, which risks being a mere cultural-historical investigation, a simple collection of significant objects or events. If psychologism confuses values and individual valuations, historicism equates value with the object of value (or good). Both positions fail to provide an adequate answer to the problem of relativism, by reducing value to its subjective dimension: “it is undisputed that there is a danger of being caught between the rock of psychologism and the hard place of historicism, which is itself a bad subjectivism” (Rickert, 1910/1999a, p. 17).<sup>5</sup>

If, therefore, an adequate reflection on value must conceptually distinguish between goods, valuations and values, it is nevertheless evident that one cannot consider the concept without keeping in mind the relationship that value entertains with the object of value (good) on the one hand and with the subjective process of appreciation or rejection (valuation) on the other. Not least because values have no other way of being present in the real world than through valuations and goods.

In particular, the relationship between valuation and value still requires more specific investigation. In fact, the correlation between ideal objects “of the purely logical sphere and *subjectively psychic lived experiencing as forming activity*” (Husserl, 1977, p. 18) is what allows us to focus on a further aspect of the concept of value: its claim to absolute validity. It is clear that the validity of value maintains some connection with the act of valuation. If one claims that value has autonomous and absolute validity, it raises questions about what this entirely subject-independent validity is.

### 3. Facts and Values

The distinction I have dwelt on between valuations and values is not universally accepted. On the contrary, reference is often made to Hume, or rather to what is known as ‘Hume’s law’, to highlight a problem connected to the distinction proposed so far. Indeed, if we recognise that it is impossible to derive *ought* from *being* – i.e. if we maintain that when a judgement describes a situation of fact (being), it is not possible to derive from it any other judgement as to how that given situation ought to be – then value is inevitably identified with valuation.

From this viewpoint, value judgements are, in fact, always subjective assessments that depend on individual and psychologically connoted perspectives which cannot refer to any independent objectivity. If one takes this stance, considering values as different from evaluations generates a serious error because, as Ayer noted, moral or aesthetic judgements do not express cognition, but rather a positive or negative feeling – a positive or negative valuation – about something: ‘x is good’ or ‘x is beautiful’ is equivalent to ‘hooray for x’ (cf. Ayer, 1936).

Those who take this perspective rule out that truth can be understood as a value. On the contrary, the world of science and truth is the world of facts that are empirically ascertainable. Instead – and this is an immediate consequence of the identification of value with valuation – everything that concerns morality or aesthetics cannot be the object of cognition:

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4 While it is clear that the existence of thoughts depends on psychological facts, what is not psychological is the *content* of thoughts. A psychologist position claims that the content of thoughts or logical laws coincides with the content of mental representations. This would be the case, for example, if one were to claim that the rules of a game (say, chess) are exclusively identified with the players’ psychic processes.

5 On this topic see also Husserl (1911).

one's feelings on various issues cannot be evaluated in terms of 'correctness' (Rachels, 1991, p. 432). From this assertion derives the dichotomy between 'facts' and 'values' whereby facts, connected to being and reality, are opposed to values, connected to ought, which by definition is not yet, i.e. is not real.

The outcry against the separation of valuations and values brought about by Hume's law reveals a very important question that has so far remained in the background. How do we relate to values if we do not want to consider them either real goods or – as emotivists do – mere subjective valuations? Doesn't supporting the distinction between valuations and values expose any theory that upholds it to a form of naturalistic fallacy? In order to maintain the distinction between values and valuations, we need to be able to clarify how we relate to values, how we know them, and what kind of properties they have. If we were unable to answer these questions, reflections on value would be reduced to a mysterious epistemology and an 'absurd' ontology.

However, the position of those who identify values and valuations by claiming the impossibility of a rigorous philosophical reflection on value suffers from adherence to an anthropological model that – as I shall try to demonstrate – actually sanctions its untenability. The model of cognition to which it appeals, in fact, is strongly rooted within a conception that separates the rational and emotional dimensions. This model describes the human being as split: on the one hand there are the intellect and reason, whereby we know the truth of facts, and on the other there is the emotional sphere, whereby we make assessments of the world based on individual preferences but cannot produce any form of knowledge. One must start from the critique of this framework to outline a new theory of value.

If it is true that we grasp values through our capacity to feel emotions, it is also true that emotions have their own cognitive bearing, are an integral part of the knowledge process and open up certain aspects of reality for us. If we move away from the reason-vs-emotion dichotomy and manage to envision the relationship between the emotional and rational dimensions in terms of connection and system, we will be able to recognise that our emotions are the only way we know and understand certain aspects of reality.

Of course, there are various strategies for overcoming this opposition. There is the Husserlian attempt to recognise 'forms and norms' of reason even in the emotional sphere, traditionally considered irrational (Husserl, 1914; 20/24).<sup>6</sup> Or one can try to delineate a primacy of practical reason that grounds cognition itself in a feeling of evidence (Rickert, 1904-1909, p. 22). Or else one can acknowledge, as pragmatists do, that factual judgements themselves, including those proper to the natural sciences, are intertwined with value judgements. All of modern science is peppered with examples of theories that have been established at the expense of other (even predictively equivalent) ones on the basis of consistency, simplicity or elegance (Putnam, 2002, p. 141)

The enormous amount of research over the last thirty years on the role of the emotional dimension in rational analysis confirms the hypothesis that the instinctive and emotional realm – understood as a whole – must be considered an integral part of the rational analysis process. Beginning at least with the work of neuroscientist Antonio Damasio, the relevance of visceral emotions in the cognitive and decision-making process, including the most bluntly

#### **4. Sense and Sensibility**

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<sup>6</sup> Husserl (2004, pp. 147-8) clarifies what he means by stating: "Human practical behaviour is manifestly determined by feeling. If we sought to eliminate all feeling from the human soul, then all ethical concepts, concepts such as end and means, good and bad, virtue and obligation, and all the related particular concepts would lose their purpose. Man would no longer be a being who tends towards something, who wants, who acts".

‘rational’ kind, has been generally acknowledged (cf. Damasio, 1994). When we have to deal with complex problems, with multiple personal and social implications, past experiences that have left (not necessarily conscious) traces in us affect our choices, calling up emotions and feelings with negative or positive connotations.<sup>7</sup> In this way, feelings mark the available options in different ways.

But claiming that the emotional dimension is a source of knowledge is not the same as claiming that it is also a guarantor of the *validity* of knowledge or valuation, be it ethical or aesthetic – let alone scientific. This emotional knowledge cannot in itself be considered a source of normativity: rather, it opens up a new object field,<sup>8</sup> on which we must be able to reflect, while rationally broadening its scope. In this sense, it is necessary to posit that our ability to reason does not only have to reckon with the data of sensible perception as Kant maintained. Rather, in order to understand and know the human world – our *Umwelt* – we must take into account that we *do not perceive things neutrally*. On the contrary, we perceive things as frightening, cheerful or sad, precisely because our way of being in the world is emotionally connoted.

However, it is then reason – which gets its material form emotions as well as the senses and the intellect – that must distinguish the true from the false and the just from the unjust. In this sense, it can be argued that there is a need for a critical investigation of emotional reason: just like the senses, emotions can expose us to semblance and illusion. The task of reason – understood as embodied, limited and vulnerable – is to look for the conditions of possibility of rational action. As Kant posited, reason ought to be aware that human beings, as finite and limited, are prone to error and capable of arrogance and presumption. Still, human reason is also able to engage other subjects and reach justifications of a public character: that is, made in such a way that they can be exchanged with others.

### 5. For a Stratified Theory of Value

#### 5.1 Minimal Value and Quality

This idea of reason being intertwined with and dependent on the emotional dimension, but at the same time capable of autonomous judgement, is the hypothesis underlying a ‘stratified theory of value’. The first level that needs discussing as part of this theory is that of our immediate relationship with the world, linked to perception. If we dwell on the way we relate to the world, it becomes clear that for us most things are not connoted in a neutral and aseptic way,<sup>9</sup> but seem interesting, annoying, beautiful, ugly, frightening, sad or cheerful. The world turns out to be qualitatively connoted and it is precisely on the concept of quality that we must now pause.

It was mainly Gestalt thinkers (cf. Arnheim, 1949) who defined the emotional components of our perceptions as ‘tertiary qualities’. Primary qualities, as Galileo (1953, pp. 311ff.) argued, are hardness, weight, shape, size, and motion; these are properties that an object possesses independently of the observing subject. On the contrary, secondary qualities are those that arise from the relationship between the primary qualities and a subject endowed with some

<sup>7</sup> This is the ‘somatic marker’ hypothesis, according to which pleasant or unpleasant signals (‘markers’) are activated in us at a bodily level (‘somatics’) when we are faced with decision-making situations. These are bodily sensations that allow us to somewhat anticipate what we will feel when we experience the consequences of our choices. According to Damasio, the subjects studied that were deprived of the emotional dimension seemed able to ‘know’ but not ‘feel’ (Damasio, 1994, p. 85) and this made them unable to choose.

<sup>8</sup> In the first volume of *Ideas*, Husserl clarified that even the acts of feeling and will “are ‘objectivating,’ ‘constituting’ objects *originaliter* <and therefore> necessary sources of different regions of being and their respective ontologies” (Husserl, 1963, p. 282).

<sup>9</sup> From this perspective it is necessary to step back from Kant’s assertion that “intuitions without concepts are blind”. If Kant were right, we would be forced to think that the immediate is exclusively sensible and that thought *creates* elements of sense out of sensible perception (Rickert, 1924/1939, pp. 73ff.).

form of sensory apparatus. These qualities are secondary because they vary according to the varying states of the observer: they include colour, taste, smell, etc. For example, colours disappear if there is no light, and tastes change if one is ill.

Finally, when we speak of tertiary or figural qualities, we are referring to something that, although located in the perceived object, involves the perceiving subject to an even greater extent. If secondary qualities already seem to be less objective than primary ones, because they can change according to our perceptual capacities, “it is not very easy” in the case of tertiary qualities “to define their nature and find their bases” (Bozzi, 1998, p. 100). Tertiary or Gestalt qualities (*Gestaltqualitäten*) are units made up of elements that can be separated from one another and that are not exhausted in their sum, just as a melody is not merely the sum of its notes. The complex of presentations necessary for the occurrence of Gestalt qualities constitutes their foundation (Ehrenfels, 1890/1988, p. 93). The representational content of a Gestalt quality, while depending on its foundation, is distinct and distinguishable from it. If Wertheimer had said that “black is gloomy even before being black” (cf. Parovel, 2012, p. 13), the Italian Gestaltist Paolo Bozzi gives a series of examples ranging from the vividness of the colour red, to the distressing nature of the diminished seventh chord, to the terror of a captive parrot in front of a lobster’s claws (Bozzi, 1998).

Now, as Max Scheler argued, we are able to pick up on the cheerfulness of a party even if we are in a bad mood ourselves: the quality is there and in some cases the outward merriment can infect us (Scheler, 1923, p. 26) or make our bad mood worse. A tertiary quality “cuts across the dichotomy of subjective-objective and helps us to understand its inadequacy” (Gibson, 1986, p. 129).<sup>10</sup>

Sensory perception is loaded with ‘qualities’. And qualities are not just ‘weight’, ‘movement’, ‘colour’, ‘taste’, etc. Our senses are constantly stimulated, we are always hearing noises, perceiving smells, seeing lights and shadows that clearly convey a further ‘quality’, something that cannot be immediately ascribed to the sense domain it belongs to: the sound of sirens or horns and flashing lights convey distress, fear or anxiety (Rickert, 1923), while soft music and dim light can be relaxing and calming. Indeed, if there were no such qualities, we would be unable to understand what Woody Allen meant when he famously said that listening to Wagner makes one want to invade Poland.<sup>11</sup> In other words, it is a question of recognising that our immediate relationship with the world is made up of things that are colourful and noisy, but also frightening or sad, happy or distressing. On the basis of this acknowledgement, we can admit that the cheerfulness of a melody or the distressing nature of an ambulance siren are just as much a part of reality as colours and flavours, although in a different way (cf. De Monticelli, 2021, pp. 225ff.).

These ‘qualities’ bring subjectivity into play, but cannot be considered ‘subjective’ in the sense of a radical viewpoint relativism. These qualities are not relative to my personal history, unlike the halo of melancholy surrounding a photo of *my* grandmother. The latter is a subjective experience linked to me as an individual different from everyone else. In the case of tertiary qualities, it is very useful to distinguish – following Nicolai Hartmann – between ‘relationality’ and ‘relativity’. The cheerfulness of a musical composition or the sadness of a landscape are such *for* a subject and only make sense when placed in relation to a subject: only a subject can recognise these characteristics. By this ‘for’ I do not mean that the subject gives those

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10 The American psychologist James J. Gibson has taken up the topic of the ‘invitation character’ (*Aufforderungscharakter*) of reality from the Gestalt tradition, introducing the concept of ‘affordances’ of the environment. See in particular Gibson (1986, p. 102ff.).

11 In *Manhattan Murder Mystery* (1993), Woody Allen excuses himself to Diane Keaton for wanting to leave the opera early: “I just can’t listen to any more Wagner, you know...I’m starting to get the urge to conquer Poland”.

things meaning or content, but rather that the subject is the reference point of the relation (Hartmann, 2002/2004). This is why we speak of 'relationality'. It is sufficient to think that even geometric laws are only valid 'for' spatial representations, and physiological or biological laws only 'for' organisms. Yet there is nothing worrying about this 'for', nor is this 'for' intended to imply a relativity of the content of such laws (Hartmann, 2002/2004, chap. XV). Rather, it is a matter of recognising different regional ontologies (Husserl, 1913/1963), from which to derive different norms and forms of validity.

Therefore, tertiary qualities are not relative to the individual subject, but rather depend on the subject's mode of being. In this sense, the investigation of tertiary qualities requires a rethinking of the structures of subjectivity. The cheerfulness of a melody and the gloominess of a landscape are experiences that carry meaning, but they are linked to a feeling, which involves the immediate relationship with the world, the body and the emotional dimension (Donise, 2019). Subjectivity should then be reconsidered in connection with biological and neurological knowledge that leans towards affirming the rights of instinct and emotion, showing how 'tertiary qualities' can be understood as adaptive responses to certain kinds of stimuli (e.g. certain sounds, such as a bear growling, can instinctively generate fear, without the bear ever having been experienced).<sup>12</sup> However, the analysis carried out in these pages is aimed at investigating tertiary qualities in their objective dimension of meaning, outlining their fundamental characteristics without reducing this dimension to an adaptive and instinctive response.

At this point, however, we must ask what is the connection between this qualitative dimension and the topic of validity. That is, we need to address the question of whether this non-sensible conveyed in sensory perception is the bearer of validity. A man's facial expression appears sad to me; I am drawn to a melody; a siren screaming through the city streets scares me. Can I be certain that the man is really sad, that the melody is beautiful and that the siren is frightening? And if so, how do I move from recognising the serenity or joy that a sound conveys to me to affirming its artistic value? What underlies the validity of such a transition? The recognition of meaning is not a psychological act, nor is it an intentional bestowal of meaning; rather, it is the acknowledgment of something that is independent of the states of an individual at a given moment, and is therefore potentially endowed with universal validity. Of course, some qualitative elements have greater universal validity (some sounds, such as sirens or screams, trigger a sense of alarm in every culture; others, such as the slow, sweet sounds of lullabies, tend to provoke a form of relaxation, and so on), while the validity for others is far less universal. In this sense, while we cannot establish universal validity, we must recognise that along with the merely quantitative, we grasp an element of qualitative meaning that exceeds and grounds our immediate relationship with the world. Before the distinction between facts and values, there is the encounter with an immediate world and the recognition of meaning.

This way, to conclude, we can try to formulate a hypothesis on the origin of the very concept of 'value'. Our encounter with the world, from the very beginning, is not neutral, nor is it geared towards cognition (neither scientific nor historical): we always like or dislike things, animals and people; they make us afraid, sad, happy. This element precedes any possible gnoseological relationship and offers an important indication that outlines

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12 Damasio, for example, identifies primary and universal emotions as the adaptive responses to certain categories of stimuli. Nobody has an innate fear of bears or lions, yet we may be "wired to respond with an emotion, in preorganized fashion, when certain features of stimuli in the world (...) are perceived. Examples of such features include size (as in large animals); large span (as in flying eagles); type of motion (as in reptiles); certain sounds (such as growling)" (Damasio, 1994, ch.7).

a relationship between facts and values. We can thus identify a moment in which the two elements – although identifiable in their differences – are united in a single perceptual experience.

In this sense we can recognize that ‘values’, at least in this minimal sense, are no less a part of reality than colours and tastes. In conclusion, this first level consists of an original and immediate layer, in which reality is characterised by having an emotional quality and a meaning of its own that are imposed on us; this is a fragmentary meaning and a ‘minimal value’.

The second level, which falls within an empirical horizon, has to do with the subjective, partial and culturally connoted viewpoints we find in time and space. This is the value referred to in the personal valuation that everyone has of things. Precisely because it is our own, we are inclined to consider this assessment as fully valid. We can therefore define this second-level type ‘subjective validity’.

5.2 *Subjective and Individual Value*

The third level is that of value based on which a scientist or historian selects relevant events, which implies the recognition of the significance of one event over another. Such values are established as shared and aspire to be universal. Every form of scientific knowledge is the “the working out and recasting of what is factual on the basis of specific governing perspectives” (Rickert, 1986, p. 195; see also Weber, 1904). There is a clear difference between the certainty expressed by natural-scientific knowledge and that which characterises the historical and cultural world. In the case of historical knowledge, the role of value in selecting relevant facts is more evident. A historian can never confine themselves to narrating “what really happened” but must always “distinguish the essential from the inessential”: “that Friedrich Wilhelm IV declined the German imperial crown is a ‘historical’ event, but the question of which tailors made his uniforms remains a matter of complete indifference” (Rickert, 1986, pp. 71-72).

5.3 *Epistemological Value*

What should guide a historian in the selection of events is a ‘general value’, recognised by all. The selection should not entail a moral or ideological assessment of the historical event or individual, but rather the recognition of the relationship between value and event. A democrat on the one hand and an aristocrat on the other would very rarely agree in their evaluations of events; however, “differences in evaluation must be based on a *common conception of reality*. If such a *common* conception of reality did not obtain [...] the antagonists would not even be talking about the same thing” (Rickert, 1986, p. 92).

In other words, a distinction must be made between the personal valuation we express on an event (attributable to subjective and individual value) and the recognition of the objective relevance of an event. In this second case, one is aware of the *significance* of an event, where significance expresses the event’s relation to value and makes it worthy of being selected. Of course, meaningfulness is also partly related to the given era and cultural perspective. However, this level aspires to intersubjective validity: it seeks to rise above individual arbitrariness, as the result of a comparison between individual points of view. In the ethical sphere, too, this level of value aspires to construct reasons for justification that have a public character, in such a way that they can be the subject of discussion with others.

The fourth level originates from all three previous ones and is configured – Lotze’s reflections on the concept of *Geltung* help us here – as a formal concept of value, referring to things such as truth, beauty, justice and, following some early 20th-century authors, the value of sacredness, society, happiness or eroticism. This level allows us to identify the various spheres of values and work analytically on their differences. Thanks to it, we can recognise that in every age and in every place, people have acknowledged that some things are true, some things are beautiful and some things are right, etc.

5.4 *Absolute Value*



At this level of the stratified theory, we are not interested in the content, which can be extremely varied. At this level – built precisely in the sense of regional ontologies – one can, for example, outline the differences between the logical-theoretical and other fields, to understand the difference between the validity of truth and the validity of beauty or goodness. Take, for example, any scientific goal – from a theorem to vaccines, from DNA to atomic energy. Every milestone can always be surpassed and is a part of an infinite process that can never exhaust the very material of ‘truth’. On the other hand, in the artistic dimension, a single work of art always realises beauty in a form that cannot be surpassed, because it is complete in itself: it would make no sense to say that *The Magic Mountain* surpasses or completes *The Divine Comedy*.

This kind of formal investigation is essential for the adequate definition of concepts. And while it is clear that the contents of historical development are in constant transformation, on the contrary, the *conditions* of this development are removed from development itself and reveal a supra-historical character. The very idea of formal value is aimed at describing all supra-historical connections, while at the same time maintaining space for what we can call ‘indeterminate’ as historical. Reflection on formal value cannot therefore be resolved in the simple juxtaposition of historical goods from which values can be deduced; rather, such a classification must have a principle, and the search for this principle leads us in the direction of the meta-historical element. Philosophical reflection on value must therefore take into account certain formal premises that are not involved in the historical and evolutionary process.

In conclusion, the first and fourth levels achieve a form of universality. The first is closely related to sensory perception and the relationship we, as subjects, establish with the world. The fourth, on the other hand, achieves a universality of a formal nature. Instead, the second and third levels, which are strongly connected, merely *aspire* to universality. Subjective and singular value is strongly marked by a cognitive bias: it sees its own point of view as absolute and tends to regard its own assessment of the world as valid; epistemological value represents subjectivity’s effort to take a general point of view and to look at things considering the perspective of others. The open challenge faced by a theory of value is to delineate – through the analysis of fields or regions – the connections and transitions between these different levels.

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# ON EMOTIONAL TRUTH

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## *abstract*

Truth is not only a semantic notion, because it can involve our whole being, both intellectual and emotional. The emotional character of the truth determines its relevance for us. In this paper I will first discuss Ronald de Sousa's theory of emotional truth and the idea of the appropriateness of emotions in relation to judgment. Secondly, I will deal with Meinong's conception that emotions have both an evaluative and a cognitive character, allow us to know what the world is like, and consequently are related to truth. Truth then turns out to be a value. If something is valuable to me, it stirs an emotion. That is why truth is capable of attracting feelings. Emotional truth is that truth which attracts a justified knowledge-feeling. This is the basis on which we might develop an aesthetics of concepts whereby theories, in order to be established, need not only to be regarded as true but to produce an emotional involvement of the subjects.

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## *keywords*

*emotions, truth, values, Alexius Meinong, Ronald de Sousa*

**Introductory  
Remarks**

In his *Selbstdarstellung* (1921) Meinong writes that the study of the ‘True’ intended as an objective value has a place both in the theory of knowledge and in logic. He goes on to assert that we call ‘true’ not only the factual objective (i.e., the state of affairs) and the judgment that apprehends it, but also the object presented by the feeling and the relation between this object and the experience (*Erlebnis*) which apprehends it. He then concludes: “This legitimizes, to a certain extent, the attempt to define the truth also in emotional terms” (Meinong, 1921, *GA* VII, p. 42). He does not elaborate further on the matter but refers us to his book *Über emotionale Präsentation* (1917), a very complex text having no specific bearing on our topic. The suggestion remains that for Meinong the issue has its relevance.

A key to understanding what he means by emotional truth is offered by an additional note concerning *Über emotionale Präsentation* published posthumously in the complete edition of his works (cf. Meinong, 1968, *GA* III, p. 750). Starting from this note, in my previous paper (Raspa, 2020) I was able to reconstruct the theoretical context in which Meinong’s concept of emotional truth is placed. The notion of emotional truth has recently been studied most notably by Ronald de Sousa in his *Emotional Truth* (2011), where he builds on some of his own earlier articles and essays; a lively debate has also taken place among scholars working on the philosophy of emotions. Here I intend to use de Sousa’s text as a starting point to examine the notion of emotional truth. Before addressing his position, however, a preliminary note is in order.

Basically, the present work is inspired by Aristotle’s view that thought and emotions are common affections of the soul and the body.<sup>1</sup> As such therefore the two are related. According to Aristotle, all affections of the soul are related to a body: passion, gentleness, fear, pity, courage, joy, love, and hate involve a body, in the sense that their occurrence is accompanied by a concurrent affection of the body. Emotions arise in connection with a cognitive-evaluative act and can condition the way we perceive and make judgments about the world (cf. *Rhet.* I 2, 1356a 15-16; II 1, 1377b 31 - 1378a 1). For Aristotle, emotions are connected to judgments, opinions, and beliefs. They mostly refer to objects believed to exist by those who feel emotions, though such objects can also be merely imaginary. Aristotle writes that fear, defined as “a pain or disturbance due to imagining some destructive or painful evil in the

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<sup>1</sup> Cf. Aristotle, *De an.* I 4, 408b 25-27: “Thinking, loving, and hating are affections not of thought, but of that which has thought, so far as it has it.”

future” (*Rhet.* II 5, 1382a 21-22), cannot arise without this representation and the conviction that it is *appropriate*, i.e., without the conviction that one may suffer some actual evil.<sup>2</sup> In short, for Aristotle emotion is a mental and physical intentional state, which contains cognitive-evaluative elements and can condition cognitive and evaluative processing.<sup>3</sup>

This thesis of the cognitive character of emotions, widely shared today,<sup>4</sup> and the one about the appropriateness of emotions are essential for the development of my argument. If emotions have a cognitive function, then they have some relation to truth. What kind of relation?

Broadly speaking, we can assume that knowledge is aimed at knowing the truth. However, not all our cognitive faculties are true or false. For instance, representations are not, which is precisely why they differ from judgements. It could be argued that representations are related to truth in the sense that without them we would have no judgements, and therefore no truths either. Yet it is not in this sense that emotions are related to truth, but rather – as I intend to make clear later – insofar as certain features of objects are only knowable through emotions and without emotions would remain unknown to us. That is why emotions contribute to our knowledge of certain aspects of the world.

Truth and emotion. The question is: which is the noun and which is the adjective? This is not an idle question. The notion of emotional truth is placed in the ‘common area’ of the theory of values and the philosophy of emotions. To talk about the kind of truth I call ‘emotional truth’ it is necessary to clarify what we mean by emotions. Now, one can take ‘emotional’ to be an attribute of ‘truth’ or can speak of ‘true emotions,’ and regard truth as a property of emotion. I believe however that true emotion and emotional truth are two different notions, even if in ongoing debates they are often used interchangeably.

What is the relevance of the concept of emotional truth? That it allows us to tackle the problem of relevance. Truth is a semantic notion. But it is not only a semantic notion. It can involve our whole being, both intellectual and emotional. From a semantic point of view, a true proposition is equivalent to another true proposition. From an emotional point of view, this is not always the case. A certain true proposition can be associated with feelings, hopes, and a longing for justice, which make it more relevant than another true proposition. The emotional character of the truth determines its relevance – in some cases, its political significance.

My following remarks will fall into three sections. First, I will discuss de Sousa’s theses as well as some critical responses to them; I will then give a short account of Meinong’s notion of emotional truth; finally, I will propose the idea of an aesthetic of concepts.

According to de Sousa (2011), “emotions are states of a subject, but commonly refer to and respond to something outside that subject” (p. 29). Mental states are *intentional*; they relate to or are directed at one or more of a variety of objects. In the case of emotions, the object towards which the state is directed is not always the same as the object causing the emotion; therefore, we must distinguish between the target and the cause of an emotion. De Sousa gives this example: “If I get angry at you because sleep deprivation has made me irritable, you are the target of my anger without really being its cause” (p. 30).

Emotions have a *cognitive* function. They provide “some sort of information about the real

## **1. Emotional Truth According to Ronald de Sousa and His Critics**

### *1.1. Emotions as Intentional and Cognitive States*

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2 Cf. Aristotle, *Rhet.* II 5, 1382b 33-34: “fear is felt by those who believe something to be likely to happen to them, at the hands of particular persons, in a particular form, and at a particular time.”

3 I have discussed these topics in Raspa (2016, pp. 177-184).

4 See Solomon (2004, p. 76): “notably the idea that emotions are in some sense ‘cognitive’ and consist (at least in part) of evaluative judgments and thus display a kind of intelligence have become mainstream, even popular.” But some people disagree: see for ex. Yang (2016).

world, and in particular about an external domain of value” (p. 28). According to de Sousa, emotions allow us to know values, insofar as they not only perceive values but “also constitute them” (p. 8). He assumes without argument – as he claims (cf. pp. 20, 25 fn. 4, 70) – that emotions are perceptions of value.<sup>5</sup>

1.2. *Appropriate Emotions*

According to de Sousa, if emotions are perceptions of value, then they are simply as true or false as other perceptions are. Emotions are true if they correctly represent or apprehend evaluative facts. However, when we apply the notion of truth to emotions, “the sense of that notion is significantly different from that of ‘truth’ as typically ascribed to propositional or ‘factual’ beliefs” (p. 21). These assertions seem to be at odds, but subsequently de Sousa goes into some more detail about the concept of truth and argues that “the ordinary sense of truth, as it applies to propositions and is naturally extended to beliefs, is only a special case of a more general property, which can be applied to a broad class of mental acts or events, including desires, and most emotions reasonably construed” (p. 28). The ordinary concept of truth which applies to propositions, beliefs, and judgements is only a species of a broader generic truth applying to all mental states (as we will see in more detail below).

What kind of truth are we dealing with? In the case of emotions, “appropriateness is just like truth” (p. 20). But when is an emotion appropriate? To answer this question, we need to introduce the concept of *formal object*. In the clear words of Mikko Salmela, a formal object is “an evaluative property that each token emotion of the same type explicitly or implicitly ascribes to its particular object and that provides the standard of fittingness for individual emotions of that type” (Salmela, 2014, p. 12; cf. also de Sousa, 2011, p. 72). For example, a determinate fear is appropriate if its formal object is the Dangerous. The concept is simple even if the definition is circular: an emotion is appropriate if its particular object fits its formal object; in other words, “if the particular object of emotion has the formal property that the emotional evaluation ascribes to it” (Salmela, 2014, p. 12).

In summary, emotions are intentional and cognitive states which allow us to know values, and can be appropriate or inappropriate in relation to a given object. As a matter of fact, some of these contentions are not new, since they can be traced back to Aristotle. They provide the theoretical basis for the notion of emotional truth.

1.3. *Emotional Truth*

De Sousa assumes a generic conception of truth as “correspondence between a belief and something else,” that is, the state of affairs the belief is about (de Sousa, 2011, p. 51). A correspondence theory of truth presupposes the existence of something outside of my belief or judgment. The meaning of any word or idea is based on the relation between the word and a corresponding object.

Any assertion of a truth involves the possibility that it can be corrected by means of a *norm* referring to something outside the epistemic framework of the person making the assertion. This implies a kind of correspondence that de Sousa summarizes in the maxim: “*when you tell a story, the truth of the story is not part of the content of the story*” (p. 52; cf. also p. 48). De Sousa refers to something that is external to the story itself. Yet while for beliefs truth coincides with success,<sup>6</sup> for other attitudes it lies elsewhere (cf. p. 56). What is the meaning of ‘success’ here?

Let us keep in mind the following definition of generic truth:

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<sup>5</sup> In this regard, de Sousa only quotes Tappolet (2000). A critical discussion of this thesis is offered by De Monticelli (2016).

<sup>6</sup> “Truth is a norm of success for belief” (de Sousa, 2011, p. 49; cf. also p. 55).

A mental state *M* can be said to be generically true or false, if

(GT1) *M* is subject to a norm *N*;

(GT2) *N* is determined by *M* itself; yet

(GT3) *N* looks for its satisfaction to some reality existing independently of *M* (p. 55).

A belief is satisfied if it is subject to a norm, namely truth (GT1), the content of which determines the specific character of that norm (GT2), whose satisfaction is independent of the belief's existence (GT3).

De Sousa distinguishes two properties of propositional attitudes, success and satisfaction, which we have just mentioned and by means of which he defines emotional truth.

Satisfaction – he writes – is a purely semantic property: a truth-valued entity (inscription, belief, desire, hope, regret, or what have you) is satisfied if and only if the proposition it contains is true. But success is a matter of whether the point or aim of the propositional attitude has been achieved (pp. 56-57).

For beliefs, satisfaction and success coincide, because the aim of belief is truth. For other propositional attitudes, things are different: desire, for example, seeks satisfaction, but its success (or rightness) is independent of truth. For a desire that remains unsatisfied is not wrong. The same applies to a feeling like unrequited love, which is nonetheless a genuine feeling. To understand the difference between satisfaction and success, let us refer once again to the example of fear. The formal object of fear – we have said – is the Dangerous. “Fear that *p* is satisfied iff *p* is true, but it is successful iff *p* specifies a situation that is actually dangerous,” that is, iff *p* actually fits the formal object of the emotion (p. 57). In any case, the success of emotion is independent of its semantic satisfaction. Fear of monsters is not semantically satisfied, because monsters do not exist, but it may be successful. De Sousa offers the following definition of emotional truth:

Emotional truth, then, is generic truth: it refers not to semantic satisfaction, consisting in the truth of the propositional content, but to success – whatever that may amount to for a given emotion (p. 58).

This definition is unsatisfactory. It implies that emotional truth has to do not with truth (semantic satisfaction), but with being taken as true. Moreover, the previous definition of generic truth contains the notion of satisfaction, while here emotional truth refers to success, not to satisfaction. Therefore, de Sousa rewrites the conditions of generic truth for emotions:

(EGT1) emotions are subject to a norm defined by their formal object;

(EGT2) this norm is determined by the emotion itself;

(EGT3) the attainment of success for emotions depends on a vast holistic network of factors (biological facts, social norms, individual biographical experiences) (cf. p. 64; cf. also p. 38).

What does emotional truth really consist of? Both these conditions and some other claims – “Anyone whose experience lacks the appropriate valence, however, might then be said to have an objectively false emotion” (p. 60); “The emotion is appropriate or ‘true’ in the specific circumstance if and only if the object itself actually has property *F*” (p. 72) – suggest that de Sousa attributes truth to emotions – as he himself says (cf. p. 44). But while the truth (of beliefs) does not admit of gradations, emotions, which may be more or less correct or



appropriate or fit, should admit of varying degrees of truth (cf. pp. 54-55, 66). Emotions have a dual function: they tell me what is going on inside me and they give me information about the world outside me. They can do this rightly or wrongly. Asserting that emotions give me information about the world implies the possibility of error. Moreover, each emotion has its own specific formal object, because de Sousa regards the variety of emotions as making it impossible to identify a specific kind of formal objects for all emotions. Each emotion is unique to each individual (cf. pp. 69-75).

1.4. Mikko Salmela's  
*Criticisms of de Sousa*

The character of de Sousa's conception of emotional truth outlined above is made explicit in stronger terms by Mikko Salmela's criticism: when de Sousa speaks of emotional truth, he clearly means true emotions.

Like de Sousa, Salmela ascribes a cognitive value to emotions and uses the notion of appropriateness or correctness to indicate the relation between emotions and objects in the external world. Since many scholars believe that appropriateness is in the emotional domain something analogous to truth, then – asks Salmela – why not simply say that emotions can be true or false? There are two obstacles to considering emotions as truth-apt: (1) the thesis that only sentences and propositional attitudes with assertoric content (beliefs, thoughts, and judgments) can be true or false; and (2) the subjectivity of emotions, as I mentioned earlier. However, Salmela believes he can provide an adequate definition of emotional truth. Like de Sousa, he claims that emotions can be true and false (cf. Salmela, 2014, p. 106), but disagrees with him on the definition of emotional truth. His argument runs as follows. According to de Sousa, “emotional truth refers not to semantic satisfaction but to success, which is tied to the correctness of the emotional evaluation” (p. 106).<sup>7</sup> “Emotional truth is thus a matter of fittingness of the particular emotional object with the relevant formal object”. But, Salmela objects, “the truth of an emotion cannot be defined in terms of its success alone. This would entail that my fear of monsters is true insofar as monsters are dangerous, whether or not they exist, which is absurd. The propositional content of one's emotion must also be semantically satisfied or the target of one's emotion must exist” (p. 107). Salmela does not accept non-existent objects – otherwise, if I believe that monsters are dangerous, this has clearly an effect on me, and it is not absurd.

In general – Salmela concludes – , an emotion is true if and only if its actual object fits the formal object of the relevant emotion type [this is de Sousa's point of view], and the propositional content of the emotion is semantically satisfied or the target of the emotion exists or did exist [this is Salmela's addition] (p. 107).

De Sousa's reply to this point is fragile. He concedes that there is a certain arbitrariness in selecting only success as a criterion and excluding satisfaction. And he adds: “I can happily say that a delusional fear, such as the fear of monsters or of God, is a false fear, on the ground that what doesn't exist isn't really dangerous” (de Sousa, 2011, p. 64). But invoking existence as a criterion for distinguishing true and false fears, as de Sousa does here, amounts to recognizing the validity of Salmela's point of view.

Additional remarks by Salmela make the picture I have outlined somewhat more complex. As we know from logic, we can be right on the basis of false assumptions, whereby the truth of a belief or emotion is independent of its fittingness. Some epistemic, non-factual emotions,

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<sup>7</sup> Cf. de Sousa (2011, p. 58): “The success of an emotion is tied to the correctness of that evaluation in any particular occurrence of that emotion.”

such as fear and hope, which involve an uncertain belief, when they turn out to be true are transformed into something else (sadness or joy). In the case of epistemic emotions, satisfaction has to do not only with truth, but also with (subjective and objective) probability (cf. Salmela, 2014, pp. 108-109).

Of course, some people distinguish between appropriateness and truth. Here I will not consider other arguments about the truth-aptness of emotions, nor those that link the appropriateness of emotions to context, hence to factors such as biological facts, social norms, and individual biographical experiences. Let me now move on to discuss Alexius Meinong's concept of emotional truth.

Meinong defends, albeit with different arguments, general theses not dissimilar to those entertained by both de Sousa and Salmela. He makes the following claims: (1) emotions have an intentional and cognitive character, (2) they allow us to know values, and (3) can be appropriate or inappropriate (justified or unjustified) in relation to a given object.<sup>8</sup> Yet he goes one step further. De Sousa and Salmela are concerned with showing that truth and falsity do not exclusively belong to judgments and propositions, and that we can speak of true and false emotions. Meinong's focus is rather on characterizing truth, or at least some truths, as emotionally coloured. He considers truth not only from a semantic, but also an axiological point of view: if truth is a value, then it is the object of some emotions, in the sense that we can "feel" the value of truth.

The difference is not insignificant. In the first case, we limit ourselves to claiming that emotions are true or false and we speak of true emotions, for which the expression 'emotional truth' seems inappropriate to me. By contrast, in the second case we assert that certain truths, or true propositions, can be connected to emotions, so we investigate a specific aspect of truth, i.e., that it can be emotionally coloured.

By arguing that value is related to an emotion, and that emotions have both an intentional and cognitive character, Meinong places himself firmly within the Aristotelian tradition. He thinks that emotions allow us to know what the world is like, and that through them we become acquainted with specific features of the objects that otherwise would remain unknown to us. If emotions have a cognitive function, then – as I have said in the beginning – they have a relation to truth.

According to Kevin Mulligan (1998), emotions justify axiological beliefs and, conversely, emotions themselves are justified by perceptions, memories, and non-axiological beliefs. In addition, they are said to be appropriate if, and only if, the axiological judgments they support are correct. Like judgments, emotions too can be correct or incorrect, justified or unjustified. Referring to the Austrian philosophical tradition, in particular the one stemming from Brentano (1889), Mulligan (2017) has showed that Meinong's reflection belongs to this line of research which can be traced back to Aristotle.<sup>9</sup> Later we will see what Meinong means by justified emotions and how these are related to emotional truth. Although de Sousa does not mention Meinong (nor Brentano), the affinity between some of their views is explained by them both developing insights dating back to Aristotle. It would be interesting to discuss Aristotle's direct or indirect influence on these debates, but I cannot go into that question here.

## **2. Emotional Truth According to Meinong**

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<sup>8</sup> A fundamental distinction between de Sousa and Salmela, on the one hand, and Meinong, on the other, is that the former do not accept non-existent objects. This, however, is irrelevant for the continuation of our discussion.

<sup>9</sup> On the philosophy of emotions in the phenomenological tradition see Vendrell Ferran (2008); specifically on Meinong's theory of emotions see Vendrell Ferran (2009), Raspa (2013).

2.1. Knowledge as Justified Judgment<sup>10</sup>

In Meinong's view, truth has to do with something which is external to the subject, who does not produce truth, but knows it. Truth is grounded knowledge, expressed by a true judgment. Only judgments and, in very special circumstances, assumptions can be true or false, but they are said to be true based on their objectives (cf. Meinong, 1915, *GA VI*, pp. 38-40). Meinong calls 'objectives' the specific objects of judgments and assumptions (cf. Meinong, 1904, *GA II*, p. 387 [1960, p. 80]; 1910, *GA IV*, p. 44 [1983, p. 38]; 1915, *GA VI*, pp. 26-27), i.e., the states of affairs. They are higher-order ideal objects that at most subsist and are truth-bearers just as states of affairs are. A true objective subsists, it designates a fact and hence is factual (*tatsächlich*); by contrast, a false objective is non-factual (*untatsächlich*) (cf. Meinong 1910, *GA IV*, p. 69 [1983, p. 55]).<sup>11</sup> This does not mean that truth is the same as factuality, because truth requires apprehension, that is, a cognitive act (cf. Meinong, [1917/1918] – 1978, *GA. Ergänzungsband*, p. 346). Factuality is an ontological, truth an epistemological notion. "Knowing is true judging [*Erkennen ist wahres Urteilen*]" (p. 343), yet this does not mean that each true judgment is knowledge, because a judgment can happen to be true by accident and therefore be irrelevant to knowledge. Knowledge is justified true judgment (cf. pp. 344-345).

2.2. Truth as Value

'True', 'beautiful' and 'good' are values. If something is valuable to me, it does not leave me indifferent but rather arouses an emotion. Values attract, or are capable of attracting, certain feelings. An object has value insofar as it is able to provide the foundation for a value-feeling (i.e., pleasure or displeasure for the existence or the non-existence of something) (cf. Meinong, 1894, *GA III*, p. 37). If we apply this definition of value to a property like beauty, it follows that an object is beautiful if it can provide the foundation for a positive aesthetic feeling. It can do so because it possesses some other properties. The same holds for truth as value: it can provide the foundation for a positive truth-feeling, which is a kind of value-feeling (cf. p. 50).<sup>12</sup>

2.3. The Cognitive Function of Emotions

Emotions perform an intellectual function by means of which specific properties – which require a valuation – can be apprehended. Otherwise – i.e., without taking emotions into account – the apprehension of such properties would be beyond reach. Now, we may attribute value to something valueless or, conversely, we may fail to attribute value to something which has it. A subject can attribute to a twig the value of a divining rod. In this case, a value is ascribed to the object which depends exclusively on the subject, being thus totally subjective. Contrariwise, value is objective when its valuation does not rest on false premises (judgments), as is the case with superstition. This meaning of 'objective' shows a strong analogy with the meaning of 'justified' (*berechtigt*) noted above.

Emotions are complex. When during a war I hope for the return of peace, there are some representations to which certain objects correspond and which serve as the emotion's psychological presuppositions (*psychologische Voraussetzungen*). By means of these presuppositions, certain emotions are directed towards objects, which are accordingly the objects of those emotions, and not merely the objects of representations (or of judgments) (cf. Meinong 1917, *GA III*, pp. 314-315 [1972, pp. 26-27]). Meinong calls this object a 'presuppositional object' (*Voraussetzungsgegenstand*), or a 'borrowed object' (*angeeigneter Gegenstand*). He views emotions as characterized by a double object, a presuppositional (or borrowed) object and a proper object (*Eigengegenstand*). The proper object of an emotion is not that to which it is addressed, that is, the borrowed object. When I get carried away by

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<sup>10</sup> In the following paragraphs I summarize the argument of Raspa (2020), to which I refer for more details.

<sup>11</sup> Meinong is committed to a theory of degrees of truth varying from factuality to untruthfulness.

<sup>12</sup> Meinong's view on the relation between emotions and values has been developed by Tappolet (2000).

the sadness of a melody, it is true that sadness is a feeling, but not the sadness of the melody, because only sentient beings can feel, not objects like melodies. The sadness of a melody is the proper object which is attributed to the presuppositional object – that is, the melody – to which our emotion is addressed. The intellectual experiences of judgment and representation allow me to apprehend the melody, but not the sadness, which can be apprehended only by means of a feeling (cf. Meinong, 1917, *GA III*, pp. 324, 365-366 [1972, pp. 35, 72-73]).

‘Therefore, emotions are means for knowing objects, but they cannot apprehend them alone, because knowing is always an intellectual operation. An emotion can apprehend an object only if it is connected with an intellectual experience as its psychological presupposition (1917, *GA III*, p. 403 [1972, p. 106].). We have said that the property ‘true’ belongs to the objective (or state of affairs) and, by extension, to the judgment. Now, if knowledge is justified true judgment, and emotions are means of knowing, one may wonder whether they, too, possess the “moment of justification” (*Berechtigungsmoment*). But what can this justification consist of? According to Meinong, the justification of emotions should be sought in non-emotional experiences, that is, in judgments. It will be a mediated justification.

#### 2.4. Justified Emotions

If an emotion presents an object, i.e., it offers an object to thought,<sup>13</sup> then, when the corresponding judgment is justified, the justification can be attributed to the emotion as well. An emotion is never justified or unjustified *per se*, but it is so in relation to an object towards which it is directed, which is its presuppositional object. Nobody would say that it is justified or unjustified to feel joy, but one may be justified or unjustified in rejoicing in something or in a certain fact – one is unjustified in rejoicing in the pain of raped children. Meinong expresses this view as follows:

If *P* is an object presented by an emotion *p*, then it is justifiable to attach the emotion *p* to an object *A* if *P* in fact applies to *A* (*dem A zukommt*), and the judgment “*A* is *P*” is therefore correct. “Correct” and “incorrect,” insofar as these are said of emotions in this sense, doubtless do not mean the same as “correct” and “incorrect” in the case of judgments, but are nevertheless taken over from the latter (1917, *GA III*, pp. 414-415 [1972, p. 115]; the English translation has been modified – V.R.).

An emotion is correct or justified if the judgment which attributes the proper object of the emotion (a predicate like sadness) to its presuppositional object (for example, a subject like a melody) is justified. The analogy to the previous concept of appropriate emotion is evident. This kind of mediated justification, to which emotions may aspire, allows us to assign an objective character to emotions within the cognitive process, and to determine when an emotion is not justified (as in obvious cases of indignation). The justified or appropriate emotion is different from the emotional truth.

Although he does not deny the subjectivity of emotions, Meinong argues that, when emotional knowledge is justified, the known object (the value) is not relative to the subject, that is, it is not subjective, but, rather, objective.<sup>14</sup> He believes that ideals like love, justice, or truthfulness, are unanimously recognized as values, and that a similar recognition is to

#### 2.5. Emotional Truth

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<sup>13</sup> ‘Presentation’ (*Präsentation*) is a technical term for the act of mental experience (e. g. a representation) offering an object to thought. In Meinong’s view, not only representations and judgments but also emotions can play this role. For more details on the theory of presentation, which I have here intentionally left aside, see Raspa (2013, pp. 216ff.; 2016, pp. 186ff.).

<sup>14</sup> On Meinong’s theory of values see Raspa (forthcoming).

be found in the epistemological domain. If one regards truth as value, since value is capable of attracting feelings, the same holds for truth. In common parlance, one says that truth is “felt” (cf. 1917, *GA III*, p. 418 [1972, p. 118]). “Something is called ‘true’ if it attracts a justified knowledge-feeling” (1968, *GA III*, p. 750 [1972, p. 169]). Knowledge-feelings have judgments as their psychological presuppositions, and it is through them that we feel the value of truth. Their respective objectives (or states of affairs) are connected to feelings that may arise, for example, when a long-hidden truth is uncovered, as would be the case if light were shed on any of the numerous mysteries in Italy’s recent history (for example, the fascist massacres of Piazza Fontana and Bologna, the Ustica plane crash, the murders of Ilaria Alpi and Miran Hrovatin, and that of Giulio Regeni). The knowledge-feeling is that feeling by which we *feel* the value of truth, that is, of a justified judgment which in turn justifies the emotion connected to it. Here the notion of emotional truth, i.e., that truth which attracts a justified knowledge-feeling, takes on especial significance. How can we further develop this idea?

### 3. An Aesthetics of Concepts

I propose an aesthetics of concepts, which could help to clarify not only some issues about the neuro-cognitive role of emotions in dealing with beliefs and arguments, but also the mechanisms underlying some political and social phenomena.

In the beginning I said that, from a semantic point of view, two true propositions are equally true; and that, conversely, with regard to *relevance*, two true propositions are not equally relevant. The true proposition ‘this pen is on the table’ and the true proposition stating who killed Giulio Regeni are not equally relevant. The latter is connected to emotions, hopes, and feelings of justice that are foreign to the other. We can establish the relevance of a true proposition through our emotions, because what has value does not leave us indifferent. This claim can be accused of subjectivism, but what we have said previously about justified emotions will come to our rescue.

A theory establishes itself if it speaks not only to our thoughts, but to our heart; if we know it not only as true, but as good and beautiful. We apprehend a true value, one we are willing to commit to and possibly to die for, not only with our intellect, but also through our emotions. We discover that a truth is relevant to us through the emotions connected to it. In this sense, the *success* of a theory depends not only on the truth it encompasses, because sometimes the theory that establishes itself is simply taken as true, but it can be false; it also depends on the fact that the truth, or the proposition that one believes to be true, engages the subject emotionally.

It is important to distinguish between *being true* and *being taken as true*. We hold true and we have held true many propositions, beliefs, theories, which later turned out or may turn out to be false; however, many of these theories, in engaging us emotionally as social actors, have wrought effects on the history of mankind. This is still amply evidenced in recent times. Theories and ideas that we consider irrational, in some cases even nefarious, such as racism, neo-Nazism, and fundamentalism, lack any rational justification, but are mostly connected to emotional elements. In all these cases the ideas in question are emotionally coloured. An idea or a theory seems to establish and spread itself not only because of its truthfulness, but also due to the attraction it is able to exercise on a perceptual and emotional level.

An aesthetic of concepts is a task that lies before us. It would show (1) how some theoretically justified truths engage us emotionally; (2) how some judgments which are unjustified both theoretically and in terms of the emotions they arouse affect nonetheless the whole being of individuals. Yet two other cases are also possible: (3) one can view a falsehood as justified or, conversely, (4) a truth as unjustified, depending on the context and other factors that colour it emotionally. Such errors can persist and endure for a long time if they are connected to emotions reinforcing them. Besides, in the current climate crisis a possible strategy to have

people implement good practices is precisely an aesthetic change: those true propositions about climate change must not only be understood intellectually, but engage people emotionally, so that they implement the resulting good practices not just because they have to (as when taking a medicine), but because they like doing it.

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# NO TRUE PERSUASIVE DEFINITION MARGINALIZES?

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## *abstract*

*In the following paper we relate to the terms such as 'true' and 'real' in conjecture with dual character concepts such as 'scientist' and 'artist'. They are often integrated into phrases broadly viewed as persuasive definitions. We argue that persuasive definitions are usually intended to marginalize individuals, sub-groups, and even objects, within a group. They may also be employed to elevate or preserve the status of a group by disassociating it with its marginal members, their actions, and characteristics. For example, 'true' art may be stipulatively defined as having certain features to persuade us to accept the marginalization of those objects of art that lack them, and to elevate the social status of the authors of the objects that have them. 'No true Scotsman is cruel' is uttered to distance the normative Scots from those who run afoul, so that they can maintain untarnished reputation and positive identity.*

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## *keywords*

*no-true Scotsman move, dual character concepts, deontic, emotive meaning, fallibility*



**1. Introduction** Natural languages are messy. Despite the best conscious efforts of philosophers to clarify the different meanings of vague and ambiguous terms, these meanings tend to tangle up in different contexts. Moreover, people may prefer to send out vague messages, either intentionally or unintentionally. There is no going around the fact that vagueness is often effective in persuasion while valid arguments fall on deaf ears. Thus, it is incumbent upon philosophers not only to clarify terms but also to expose the various ways in which certain terms may be obscured on purpose.

Ironically, among the natural language terms that are most resistant to clarification and are most likely to be used to send duplicitous messages, are the terms ‘true’ and ‘real.’ The term ‘true’ is complex enough even when isolated in the sterile context of formal languages (Tarski, 1935), and it presents a true Gordian knot in the natural languages. Specifically, ‘true’ as a predicate may relate not only to sentences, as in “Sentence A is true,” but also to things, as in “This is a true masterpiece,” or to social roles and identities, as in “She is a true scientist.” Philosophers have offered several common solutions to the question of “true” qualities. One may distinguish between the *descriptive* and the *evaluative* or *prescriptive* meanings of the term ‘true.’ ‘A is a true X’ may be interpreted through a *deontic logic* family of paradigms (Conte, 1991) as a type of an “ought-phrase” instead of an “is-phrase” (Schiappa, 2003). For example, ‘Alex is a true scientist’ should be interpreted as “Alex ought to be considered an exemplary scientist,” rather than “It is true that Alex is a member of a scientific community.” It is more of a statement about the values that Alex embodies rather than about the fact of Alex’s membership in a certain social group (Macango and Walton, 2010).

Knobe et al. (2013) and others (Leslie, 2015; Reuter, 2019) have argued that phrases like ‘John is a true scientist’ are ambiguous because of the dual meaning of such concepts as ‘scientist’, ‘rocker’, or ‘man’. These terms have both factual and evaluative meaning. The term ‘bus-driver,’ on the other hand, has only one, factual, meaning, as being a bus-driver is a value-neutral activity. Thus, they shift the blame for the ambiguity of the above-mentioned phrases from adjectives like ‘true’ or ‘real’ to a particular set of socially significant nouns. We note that it is the combination of these nouns with adjectives such as ‘true’ and ‘real’ that usually lends itself to ambiguity or dual interpretations.

One must reckon with the fact that phrases like ‘A is a true X’ are often used in bad faith. Such phrases may be interpreted as *persuasive definitions* (PDs) (Stevenson, 1944; Govier, 2010). The point of certain definitions is not to clarify, but to persuade: to make someone change their beliefs and attitudes and to cause one to act in a certain way. The present research focuses on

the rhetorical uses of such terms as ‘true,’ ‘real,’ etc. These uses do not exhaust all the possible uses of such terms. Nevertheless, such terms, in combination with ‘dual-meaning’ concepts, are often intended to change attitudes without providing proper material ground for doing so. These combinations form phrases that may constitute PDs. Employing PD rhetoric can be effective in changing our attitudes towards social facts, groups, and individuals, even despite our ability to see through invalid arguments. We note that PDs may rely on social stereotypes instead of objective facts. Thus, a ‘real’ woman refers to a stereotypical woman in such rhetoric, aimed against women who do not conform to stereotypes. Thus, conformity may triumph over logic.

The following article is an exercise in rhetorical analysis. According to Schiappa (2003, p. 4), rhetorical analysis typically focuses on persuasion conducted through symbolic means. Rhetorical analysis is not at odds with philosophical analysis. In fact, rhetorical analysis is an important part of what has been described as a return to “practical philosophy” (*ibid.*). Thus, in our research we distinguish between the validity of the arguments based on persuasive definitions and their effectiveness.

We argue that PDs are usually intended to either marginalize or de-marginalize an individual, a social group or a sub-group, or even objects or sets of objects imbued with social significance. Associating objects, groups and individuals with certain significant characteristics either serves to lower or to elevate their status. Implying “guilt by association” is a bad or fallacious argumentative tactic (Kolb, 2019), yet it may succeed in tarnishing one’s reputation, nevertheless.

Particularly disingenuous uses of persuasive definition are exemplified by the ‘*No-true Scotsman Move*’ (NTSM) (Flew, 1971), where a descriptive term ‘Scotsman’ is subtly replaced by an evaluative term ‘true Scotsman’. Disassociating a certain rotten Scotsman from other Scotsmen may serve to clean up the image of Scotsmen in general even if we see through the flimsiness of such dissociation. We will argue that two wrongs do not make a right: although the action of one person should not tarnish the reputation of his entire ethnic group, denying that person’s membership within this group is false. Nevertheless, investigating such rhetorics is worthwhile.

As a part of her comprehensive study of what arguments are and what they are not, Govier (2010) covers the subject of definitions.

## 2. Persuasive Definitions

A stipulative definition is one in which someone specifies what the usage of a word is to be. In stipulating a definition, the person who puts it forward seeks to set out a specific usage for some purpose. He or she does not seek to describe ordinary usage, as in a reportive or lexical definition. Rather, the person sets out a meaning for a term (p. 76).

A persuasive definition is defined by Govier as a “stipulative definition disguised as a claim or as a reportive definition.” In other words, using a persuasive definition commonly involves a *quid pro quo*, passing one’s chosen meaning for a regular, literal meaning of a term. It involves “an attempt to change attitudes by keeping the emotional connotations of a word while altering its application.”

Persuasive definitions are not typically used as stand-alone phrases. They are usually integrated into arguments, which, in turn, may be embedded into broader rhetorical tactics and strategies. Following Burgess-Jackson’s (1995, p. 419n) clarification that the term ‘persuasive definition’ is used to refer to both an activity (‘You’re engaged in persuasive definition’) and the product of that activity (‘That’s a persuasive definition’), we will also use the abbreviation ‘PD’ to refer to both, leaving it to the context to indicate which is intended.

PDs are not always explicit. On the contrary, they are often presented as implicit premises within arguments. According to Govier:

Terms such as real, true, authentic, and genuine are often elements of persuasive definitions. If someone claims that modern abstract art is not true art because true art must depict objects realistically, he is using a premise based on a persuasive definition of “art.” If a work is not realistic in character, this person will not give it the name art. His implicit definition, stating that true art must depict objects realistically, invites others to share his conception of art. But he offers no reasons to support that conception. Instead of reasons, he offers a disguised definition (2010, p. 77).

Govier recognizes the social significance of using PDs. PDs are used to manipulate the perceived statuses of objects and persons to induce social actions upon them:

Often, when persuasive definitions are used, important issues are at stake. The term art, for example, implies some status for a created work. To deny that modern abstract works can count as art on the grounds that they are not representational is to imply that such works have no proper place in art museums (*ibid.*).

Stevenson (1944, p. 139), the originator of the concept of PD, views ethical arguments as disagreements in attitude, resolved either through changing one’s beliefs or without changing anyone’s beliefs. In the first case, such arguments are rational, while in the other case they are purely persuasive, which is echoed in Govier (*ibid.*) where she says, “Persuasive definitions attempt to alter our attitudes and beliefs by redefining terms instead of stating reasons and arguments.” Stevenson adds (*ibid.*) that persuasiveness of arguments depends on “sheer, direct emotional impact of words – on emotive meaning....” He qualifies though: “Any ethical judgment, of course, is itself a persuasive instrument, but in the use of persuasive “methods” the effects of initial judgment are intensified by *further* persuasion.” In this paper we do not view all ethical arguments as merely persuasive, of course. Our only focus is persuasion which relies on manipulation of definitions.

Stevenson views persuasion as an explicitly nonrational, rather than irrational activity. Persuasion does not usually rely on logical miscalculation or trickery, as it simply does not rely on logic. Persuasion may involve “sleeping metaphors” or ambiguities, as in a case when a word ‘man’ in “Our leader is a man,” is used both in the literate sense of “male,” and in the suggestive sense of “one who has strength of character” (p. 143). We would say that this phrase relies on stereotypes rather than the empirical study of social reality. Relying on social stereotypes may turn out to be effective in persuasion, regardless of whether they are true or untrue. Their empirical validity is simply irrelevant from the rhetorical aspect.

### 3. The Different Meanings of Vagueness

Stevenson argues that vagueness, in a particular sense, is an essential element of persuasion. “Ethical terms, as used in everyday life, are vague: with no sharp distinction between their strict descriptive meaning and what it suggests” (Stevenson, p. 206). According to him, this vagueness is often intentional. Unlike in science, the function of definitions in ethics is not to “clarify common notions or make convenient abbreviations.” Ethical definitions conjoin the descriptive and emotive meanings, they do not separate or delimit them, as the term definition would suggest. They serve purposes. “To choose a definition is to plead a case, so long as the term defined is strongly emotive” (*ibid.*, p. 210).

Stevenson labels the concepts that we refer to as dual character “semi-ethical.” He uses a question of whether Alexander Pope is a poet to show how such definitions may enter

arguments. Of course, this question is a matter of “mere” definition, but this is precisely the point: using a suitable definition of what it means to be a “real poet” to influence someone’s attitude towards Pope, perhaps to legitimize disregarding him altogether.

Stevenson notes that persuasive definitions are often recognizable from the words “real” or “true” employed in a metaphorical way (p. 213). He quotes from Aldous Huxley’s exploration into completely reversing the meanings of terms by adding a qualifier ‘true’ to them:

But if you want to be free, you’ve got to be a prisoner. It’s the condition of freedom – true freedom. “True freedom!” Anthony repeated in the parody of a clerical voice. “I always love that kind of argument. The contrary of a thing isn’t the contrary; oh, dear me, no! It’s the thing itself, but as it truly is. Ask any die-hard what conservatism is; he’ll tell you it’s true socialism. And the brewer’s trade papers they’re full of articles about the beauty of true temperance. Ordinary temperance is just gross refusal to drink; but true temperance, true temperance is something much more refined. True temperance is a bottle of claret with each meal and three double whiskies after dinner....” “What’s in a name?” Anthony went on. “The answer is, practically everything, if the name’s a good one. Freedom’s a marvelous name. That’s why you’re so anxious to make use of it. You think that, if you call imprisonment true freedom, people will be attracted to the prison. And the worst of it is, you’re quite right” (pp. 214-215; Govier, 2010, pp. 77-78).

Stevenson, we must note, uses a very specific, that is to say, stipulative definition of the term ‘vague.’ Typically, ‘vague’ means the opposite of ‘precise’ (Hospers, 1967, p. 67).

The simplest form of vagueness occurs when there is *no precise cutoff point* between the applicability and non-applicability of a word; in some situations the word is clearly applicable, in other situations it is clearly not applicable, but between these there is a no-man’s-land of meaning in which one cannot say whether the word is applicable or not (*ibid.*).

While Hospers assumes that when PDs are involved, the appropriate meaning of ‘vagueness’ is the one stipulated by Stevenson, others, like Burgess-Jackson (1995) and Aberdein (1997), apply the more typical sense of the term in their analyses of rape. Thus, when they argue that extending application of a term to include the borderline case does not constitute an objectionable use of PD, they do not consider the intentions of those who stretch definitions. Burgess-Jackson (1995, pp. 434-436) presents twenty-four ambiguous cases ranging between rape and consensual sex, and asks the reader to determine, which cases constitute, and which do not constitute rape. Since the reader cannot perform the task, most of the cases are argued to be borderline. But the dichotomy between rape and consensual sex is false. This line of argumentation ignores the terminology that applies to various degrees of sexual assault and repugnant behavior. The fact that an average reader is not familiar with the legal vernacular does not prove that a legal expert will not be able to discern between the different cases and categorize them appropriately.

The disingenuous aspects of PDs are often hidden in plain sight. We are tricked by their obviousness. The term ‘murder’ may be vague, in the sense that a layperson may not be able to distinguish it from manslaughter. The phrase ‘meat is murder,’ however, implies a PD of ‘murder’ which is problematic not because we cannot establish whether it properly applies to slaughtering of animals, but because it clearly intends to make us as enraged about eating meat as we are about executing innocent people despite our awareness of the distinction. We

are aware of the distinction between people and animals, yet our emotions are not governed by logic. Thus, we may be persuaded by obvious overstretching of boundaries. This is a point that requires further clarification: how do PDs work if they do not exactly fool us?

#### 4. No-true Scotsman Moves

Anthony Flew (1971) relates to a type of persuasive defining that he coins as NTSM: a “move” – a disingenuous rhetorical device. NTSM is nothing but a crude and intentional mix-up of categories that we ought to know are better kept separate. Flew associates NTSM with Humean dichotomies: not only between descriptive and prescriptive utterances, but also between “relations of ideas” and “matters of fact.”

For people everywhere – being too human – constantly fail to be and to make clear which sort of claim they are supposed to be urging. Worth still, having started with an assertion of the one sort we then illicitly – and often unwittingly – reinterpret it in the other way. Let us pillory this particular form of intellectual delinquency by dubbing it, *The No-true Scotsman Move*. Someone says: ‘No Scotsman would beat his wife to a shapeless pulp with a blunt instrument.’ He is confronted with a falsifying instance: ‘Mister Angus McSporrán did just that.’ Instead of withdrawing, or at least qualifying, the too rash original claim our patriot insists: ‘Well, no true Scotsman would do such a thing!’ By this evasive essay in persuasive definition, what started as a contention about a supposed matter of fact is shiftily transmogrified into the expression of a factious necessary truth (p. 388).

The difference between matters of fact and necessary truths is that the former are fallible, while the latter are infallible. Such categories or kinds as ‘Scottish,’ and ‘scientist’ are fallible: potentially, there are ways to check whether McSporrán is of Celtic ancestry and whether Alex holds a diploma. By adding ‘true’ to the above categories, we cannot question the locutor’s meaning of such new categories, though it is implied that the locutor merely qualifies the original, fallible ones.

In no uncertain terms, Flew characterizes NTSM as a deception. Whatever the logical status of the necessary truths is, NTSM is built upon an implicit denying of that which is true as a matter of fact.

Although you may choose to be so tiresome as to operate not with a concept of Scot but with that of true Scott, you cannot choose whether or not Mr. Angus McSporrán is a Scot. You can only choose whether to say what is false, that he is not (p. 449).

Without this falsity the move would not work and would not make any sense. The very point of NTSM is to work around that which is true by trivializing the truth of the matter. We know that Angus McSporrán is a Scot. The point of NTSM is not to deny the obvious but rather to make it unimportant. The deceptiveness of PDs, exemplified by the NTSM, hides in plain sight: the falsity of the claim is so obvious that pointing it out is simply ridiculous. Hence, one is expected not to point it out. The correct response to NTSM would be, of course, to point out the falsity with a deadpan demeanor.

#### 5. Bad Yet Effective Arguments

Despite such egregious examples as the one quoted from Huxley, Stevenson (1944, p. 215) argues that not all persuasion is that of a mob orator, and asks which persuasions must be rejected and which must not be?

We have seen Burgess-Jackson (1995) and Aberdein (1997) argue that not all uses of PD are illegitimate. Aberdein argues that PDs such as those implied in the slogans “pro-life” and

“pro-choice” are so obvious that they are not likely to mislead but rather to draw attention to critical issues – like any legitimate PR campaign. Aberdeen thinks that replacing vagueness with *clarity* legitimizes employment of PD. Thus, he suggests, if one is to challenge an old definition of a term with a new definition of the same term – one is to acknowledge the intended shift of meaning; supply the theoretical foundation for the shift; and to clarify, in which sense the term is being used in each case it is being used. This is the way to stipulate a definition, without taking the responsibility for the transfer of the emotional charge of the lexical definition of the term to the stipulated definition. Let us examine whether this feature makes for poor argumentation or not.

We must note that not every conversation is a philosophical debate and not every public speech is addressed to the academic or scholarly community. This is exactly the point that Schiappa is making: philosophers must not only distinguish between valid and invalid arguments, but also investigate how people persuade other people to adopt and use certain definitions to the exclusion of others.

*Ad hominem* attacks make for bad arguments (Wrisley, 2019). Nevertheless, they are often quite effective. One may call people names in order to change others’ attitudes toward them without arguing the merits of the cases they present. Certain terms have either laudatory or derogatory connotations because of the social status or prestige associated with them. People may see past the faulty argumentation, but they cannot ignore the social implications. Involving social stereotypes, jokingly or not, is no trivial matter. Although “true” philosophers may not be convinced, certain attitudes may be either affirmed or dismissed because they align with the listeners’ preconceptions regarding certain social groups. We argue that PDs are not essentially about the logic of sentences, but rather about the logic of the hierarchical social reality. Calling the locutor “low,” “dirty,” or “fake” takes nothing away from the locutor’s arguments, yet it may lower their credibility or importance.

Searle (1995) has made a distinction that might be crucial to our discussion: that between *social* or *institutional*, and *brute* or *natural* facts. Brute facts exist regardless of our institutions, while institutional facts are a matter of culture and society, and they only exist within the framework of our institutions. Brute facts are *discovered*. Institutional facts are *constructed* according to the rule, which may be formulated as: ‘X counts as Y in context C.’

The significance of this distinction may be disputed. Guala (2014) argues that the differences between social and natural kinds are not particularly significant since the once they are established, the characteristic properties of social kinds are discovered, just like in the natural realm. He thus rejects what he refers to as the Difference Thesis: “unlike natural kinds, social kinds depend crucially on our attitudes towards them.” In other words, Guala points out that institutions are not arbitrary in their function, and they establish facts according to rigorous social laws. A dollar bill is created, yet its value is determined, even if it fluctuates according to invented social rules. We must note, however, that when someone claims that someone’s money is “dirty,” the point is not to say that the bills are fake and would not be recognized as legal tender. The point is to say that they *should not*.

Some argue that certain NTSM arguments are not necessarily fallacious because they relate to social facts. A phrase ‘X is a true Y’, where Y is a social category, may be legitimately understood as ‘X should count as Y’ although X is, strictly speaking, not Y. Schiappa (2003, p. 3) argues that “definitional disputes should be treated to be less about philosophical or scientific questions of ‘is’ and more as sociopolitical and pragmatic questions of ‘ought’”. Following Schiappa, Anderson interprets a NTSM to mean, *though Angus McSparran is Scottish, that is not how a Scotsman should act*. Thus, he thinks that we must interpret calling a person or their behavior ‘un-American’ similarly – they are not called ‘fake-American’, ‘false-American’,

## 6. Social Facts and Social Oughts

or even a ‘non-American’. This is not a case of redefinition, but of clarification: that person is recognized as an American, yet they are not acting as an American should. Since the question of how a Scotsman should act is not a matter of fact, according to Anderson, there is no way to further the conversation, as a Socratic aporia has been reached. Nevertheless, under Anderson’s interpretation, NTSM may be understood as a logically acceptable way of calling our attention to something that ought not happen yet happened anyway.

While it seems plausible that using a NTSM one may merely intend to imply that someone is not living up to a certain social standard, such a line of arguing may be extended ad absurdum. One may jokingly argue that no true Scotsman puts sugar in his porridge to cause a few laughs, but this is not a philosophical argument. There is nothing wrong with telling a joke or making a trivial observation that Scots ought not to be cruel yet some of them are, but it should hardly count as a philosophical argument. One may, of course, argue against us that while philosophical arguments ought not be trivial, many of them, as a matter of fact, are. We argue that it is not the case that NTSM merely suggests that Scotsmen ought not behave like Angus McSporrán did. NTSM is better understood as a speech act intended at establishing a social fact of excommunication – we are invited to consider the Scots as a group, excluding the above-mentioned Angus McSporrán.

Manninen (2019, p. 375) gives us a real-life example of the NTSM:

The author J.K. Rowling, of Harry Potter fame, who has resided in Scotland for two decades, has been heralded as “a tremendous ambassador for the country.” But after she donated £1 million to the pro-United Kingdom campaign, she was called “a Union cow bag” by various online independence activists. Although Rowling had previously appeared to be Scottish aplenty for all Scots involved, to some members of the independence movement, all of a sudden, she was not Scottish enough. The barrage of criticism aimed at Rowling shows that living in Scotland may be sufficient to make you Scottish, absent a contentious political issue.

Membership in social groups, unlike membership in a natural genus, is not a natural fact, but rather a question of a group’s attitude towards its members: acceptance or rejection. We argue that this attitude is nonbinary in nature but may fluctuate from core membership in a social category to various degrees of marginalization within it.

### 7. Fake Picasso and Marginal Rubens

There seems to be a distinction between the antonyms of the categories of ‘true’ or ‘real’ relating to social facts: the *fake* and the *marginal*. By ‘marginal’ we mean no more than “excluded from or existing outside the mainstream of society, a group, or a school of thought,” and by ‘marginalization’ we mean “to relegate to an unimportant or powerless position within a society or group,” as these terms are defined in Merriam-Webster. The difference between a fake painting and a marginal painting is clear: a fake Picasso painting has nothing to do with Picasso. He never touched it. It is not a Picasso painting at all. A marginal Rubens painting is by no means a forgery, though it may differ from a Rubens masterpiece in several ways: it was not painted when the artist was in his prime, it was mostly produced by his apprentices with an artist adding only the finishing touches, and so on. One may dispute the cultural importance of a painting, or one may dispute the factual originality of the painting, yet these are two separate disputes. Disputing the importance, of course, may be predicated upon the resolution of the question of originality.

Faking typically relates to “brute” facts and artifacts. Mimicry is quite common in flora and fauna. Marginalization is only common in social animals, but it is not an exclusively human

phenomenon. Language, of course, complicates these issues in humans and it is our job to clarify them. Searle's example of a dollar bill, whose reality is established through our attitude towards it, implies that if we are convinced that a particular bill was not produced in a manner that we expected, i.e., forged, our attitude towards it would change. We would be reluctant to accept it. The phrase "*Pecunia non olet*" or "money does not stink," attributed to the emperor Vespasian, indicates that there is a distinction between marginalization and forgery. "Dirty money" is not fake money. A "low" or "dirty" person is not necessarily an impostor. "Alex is not a real scientist" indicates either that she has forged her scientific credentials, or that she should be treated as a second rate or low-level scientist for failing to uphold certain values, stipulated to be essentially important for scientists, but not both. In the first sense, the sentence's truth value may be tested. In the second sense, we are not invited to evaluate institutional facts, but merely to judge according to the social stereotypes, strategically accentuated by the locutor.

'Fake' may be understood as the opposite of genuine, authentic, natural, or original. Faking involves pretense, mimicry or putting on a show. 'Marginal' is understood as the opposite of prototypical, normal, normative, excellent, core, mainstream. One rarely positions oneself on the margins on purpose, the social group usually pushes some of its members away from its core towards the fringes, from inside to outside, from high status to low status, though there may be exceptions to this rule (Becker, 1963). Strategic essentializing may be used to imply non-conformity to stereotypes to mean lack of integrity. Thus, an assertive, career-oriented woman may be characterized as "not a real woman." She is not argued to fake being a woman, only to display behavior that does not conform with the stereotype. The point being, of course, to change our attitude towards this woman, i.e., to marginalize her.

While Angus McSporrán cannot be said to be faking being a Scot, one may argue that he turns himself into a marginal member of his ethnic group by being excessively cruel. The other members of this group do not wish to be identified with him. To avoid being labeled guilty by association they wish to distance themselves from him. Thus, we do not dispute Anderson's interpretation that NTSM may be used to affirm both the descriptive (McSporrán is a Scot) and the prescriptive (Scots should not be cruel) readings. We argue that this refers to an oblique (or merely marginal) use of NTSM, which is more commonly used to imply the marginal or dubious status of the member within a group. NTSM may be said to be the rhetorical means to separate the dirty from the clean.

We conclude that the difference between the dual and single character concepts is social. The question is whether the concept relates to anything worth marginalizing. Usually, people ascribe little significance to hierarchical differences among bus drivers. The difference in recognition between an elite scientist or a musician and someone who is a marginal member of these groups, on the other hand, is life-altering.

Identities are not set in stone. Excommunication, ostracism, banning, and banishing are real historical and social phenomena. A license may be revoked, a citizen may be exiled, and a criminal may be separated from the rest of the society by walls and bars. We argue that 'You are no longer my son!' does not mean 'You are my son, but you should not be!' Instead, this phrase usually means 'You will no longer be treated as a member of my family,' which is closer to Searle's understanding of social facts.

When someone's behavior is referred to as 'un-American,' it does not usually mean that one is recognized as an American, yet, as a matter of moral opinion, it is not the way an American should act. It usually means that their American identity is threatened, and we are called upon to make them suffer the consequences of marginalization. The point of PD is persuasion: getting others to change their attitude and behavior (Macango and Walton, 2010). Thus, 'true

## 8. Conclusions



temperance/freedom/socialism' usually means 'drink X/submit to Y/vote Z.' PD is normally used to negate, deny, or diminish the identity of A as a member of group X. It can be done to either marginalize or deny A's lofty social status as X, or to elevate the status of X by denying the undesirable A's membership in X. 'Alex is not a true scientist' is said to persuade us to lower Alex's social status and thus change our attitude towards her. 'Angus McSporrán is no true Scot' is said to dissuade us from seeing Scots as a group, characterized by cruelty, exemplified by the said Angus McSporrán. The phrase "Hillary is the only man in the Obama administration" (Leslie, 2015) both marginalizes the male members of the said administration and elevates Hillary by favorably comparing her to a prototype. They are weak while she is strong in character although our role and gender stereotypes might have suggested otherwise. We may object to such stereotypical thinking on philosophical grounds, yet we recognize its rhetorical meaning.

The point of the positive uses of PD is to either elevate A's status within X by placing them within an elite sub-set of X, or to elevate X's status by attributing it the characteristics of A. 'A true scientist is open-minded' is said to persuade us that those scientists who are open-minded are not just scientists, but elite scientists. This phrase is used to motivate a scientist to consider a certain notion that they are likely to reject without such encouragement. 'A true warrior is brave' is said to elevate the status of the military in general, unless, of course, it is said to ascribe an outsider status to those members of the military who are implied to be not brave. This phrase may also be employed to motivate the outsiders to support or join the military, or to motivate the insiders to alter their behavior to elevate their status within the profession. Whether the members of a certain military group are, indeed, brave, according to well-defined criteria, is a simple matter of fact.

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# SUBJECTIVE MEANINGS AND NORMATIVE VALUES IN ALFRED SCHUTZ'S PHILOSOPHY OF HUMAN ACTION

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## *abstract*

*In his explanation of human action Alfred Schutz resorts mainly to Max Weber's notion of subjective meaning and Husserl's notion of type. For him subjective meaning seems more important to understand human action than the fact that social actors internalize normative values. Accordingly, validity has mainly to do with projects of action, with fulfilled (or unfulfilled) expectations and to the stock of knowledge available, along with the actor's system of relevances. This raises two characteristic Schutzian problems: 1) the relation between the subjective meaning of an action and the objective criteria (namely, the juridical and the ethical ones) according to which any action can be evaluated; 2) the relation between an actor and his fellow human beings that arguably share the same system of relevances and act in the same normative framework. In this paper, I intend to offer an analysis of these issues, resorting mainly to Schutz's 1934 book *Der Sinnhafte Aufbau der Sozialen Welt*, and in some unpublished manuscripts.*

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## *keywords*

*phenomenology, subjective meaning, intentionality, types, systems of relevance*

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**1. Meanings and Norms**

In his explanation of human action Alfred Schutz resorts mainly to subjective meanings and types, and not to norms. For him subjective meaning seems more important than the fact that social actors internalize normative values. This entails huge consequences to his theory of validity, as long as it is possible to find one in his writings,<sup>1</sup> and to the methodological procedures to which he resorts in order to understand motives. In Schutz analysis, validity has mainly to do with projects of action, with fulfilled (or unfulfilled) expectations and to the stock of knowledge a social actor finds available. Nevertheless, Schutz thought – correctly, I think – that there is no special difference, from a logical point of view, between acting according to a norm and acting according to type-based expectations, that is, expectations grounded on the way persons and institutions behaved in past normal conditions (Schutz, 1996b, p. 101). If I am projecting to travel by airplane, I will abide to the same security norms I am used to follow in my past airplane travels; if I am traveling by plane for the first time I can ask, in my travel agency, for a booklet with the security norms. In both situations, my behavior will probably be the same. Human actions unfold, most of the times, within a frame of normative ethical and juridical values. Besides, they are almost always *Zweckrational*, as Max Weber used to say, i.e., in accordance with a rational choice of the means to reach the preestablished end. Perhaps this is not true of all of them but analyzing them this way allows us to better understand abnormal cases, which could be labelled “irrational”. An analysis of all these issues and of the way Schutz deals with them is the theme of my paper. Schutz addresses human action and the normative framework in which it takes place by means of an analysis of the role played by habitualities and idealities, two phenomenological concepts of the utmost importance in the writings of the later Husserl.<sup>2</sup> With the help of these concepts Schutz stresses the importance of the temporal structure of consciousness for

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1 Schutz concern with validity relates above all to the epistemological question of the universal and necessary validity of the propositions of social sciences. It is the same problem that physical sciences also face. Schutz stressed the fact that they can both possess universal and necessary validity for the domain of invariance of human behaviors they establish, but not a *priori* validity. Schutz limited the use of a *priori* statements to the transcendental realm of philosophy. Social sciences have a mundane character, and the validity of their statements must be restricted to the world of mundane phenomena (Schutz, 1996b, p. 103).

2 In Husserl’s published writings, the concept of habituality can be found in the *Cartesian Meditations*, from 1931, and the concept of idealization in *Formal and Transcendental Logic*, from 1929. Schutz already uses the concept of ideality in his 1932 seminal work *Der Sinnhafte Aufbau der sozialen Welt*. The definition of these two concepts will be given in the following.

the understanding of human action. Habitualities and idealities come first, norms come second in Schutz's analysis. Habitualities have to do with past experiences, and, in a way, they are related to because-motives; idealities, on the other hand, have to do with the future accomplishments of expectations and must be understood as in-order-to motives.

Schutz was fully aware of the importance of norms, but I think that in this particular he was influenced by the opinion of the Japanese philosopher of law Tomoo Otaka, who came to Europe in the early 1930's to study phenomenology with Husserl and was intellectually and friendly connected with Schutz. In fact, Otaka underpinned the fact that human agency is much more determined by a "feeling of the law" peculiar to a people than by the prospect of coercion in case of its violation. That feeling constituted for Otaka the immediate guarantee of the efficacy of the law (Schutz, 1996c, pp. 218-219).

However, while Husserl resorts to habitualities, in the first place, to explain solipsistic experience, opening the field of what he will label "passive synthesis", for Schutz habitualities have to do with the cultural basements of intersubjective experience, i.e., the experience of a socialized human being. Regarding the way to address the role of norms in individual behavior, the concept of habituality can be of a great help. Social, juridical, and ethical norms need not be specifically inculcated; we learn them – or, at least, an important part of them – in our lifeworld intercourse with other fellow human beings. Our evaluations of states of affairs, of events, of people's behaviors are largely conditioned by this kind of learning. This means that it is not only the world that we take-for-granted; in normal conditions the agent also takes for granted that other human beings will act in the appropriate way in the proper circumstances. That's the role played by idealizations. We can never be sure that someone will act in what I called the appropriate way, but we expect him or her to do it and we most of the times fill sure that our expectation will be fulfilled. What is in accordance with a social norm is bound to be repeated ever again.<sup>3</sup>

To show what can possibly be an action according to norms I will begin with an analysis of the general structure of human agency. Three things must be taken into account. First, projects of action have a temporal character that reflects the temporal structure of consciousness; secondly, actions do not have necessarily the same meaning for agents and observers; thirdly, the reflection about human action carried out by the social sciences and philosophy is a special case of the reflection agents make about what they have done; moreover, the former must give an account of the latter.

Now, Schutz differentiated between two types of motives for action: "in-order-to" motives and "because-motives". The distinction between the two will only become clear after an analysis of the temporal structure of consciousness. Projects of action are subjective in the sense that they are the outcome of a subjective evaluation of the context of action, of deliberation about the ends and about the means. Action, as Schutz says, unfolds in the *modus futuri exacti*; it is always future oriented (Schutz, 1974, p. 116); this means that the agent phantasies a future state-of-affairs not only as achievable, but also as already accomplished in

## 2. "Because-Motives" and "In-Order-To-Motives"

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3 Some huge problems arise here. I will only mention two of them. First, I cannot do the same forever (neither can my fellow human beings) since I am doomed to die; but this only means that the temporal structure of the law is different from the temporal structure of a man's life and of his stream of consciousness. In the second place, norms can change. This fact will probably entail the necessity of modifying the relation Husserl establishes (namely, in *Formal and Transcendental Logic*) between the "I can do it again" and the other idealization he labels "and so on". The first is only the subjective correlate of the second. Now, if norms can change, the "and so on" has not the same validity in normative sciences like jurisprudence (and perhaps also in the social sciences) as the one it has in the formal logical-mathematical sciences.

imagination. This temporal character entails the fact that the agent is aware of having begun and achieved the action and is able to acknowledge the phases between the beginning and the end as his own deeds. To explain this fact Schutz resorts to Husserl's concept of monothetical acts; they are a special kind of acts in which the intended events can be grasped all at once, without the need to analyze them step-by-step in their successive phases.

We can look to norms as a kind of frame that accompanies the choosing between projects of action. I will address this issue later. I just want to point out now to the fact that normative frameworks are not always thematically present in the mind of an agent, which does not mean that they are completely absent. Not unfrequently, norms are just a part of a stock of knowledge acquired through education and the sedimentation of past experiences.

Social Sciences are little concerned with in-order-to motives because they are difficult to study scientifically. However, Social Sciences can study because-motives, or retrospectively take a glance into the past factors (for example, the personal background, the individual's social milieu, the environment) that caused individuals to behave as they did. Since because-motives are "objective" they can be studied using scientific methods and dealt with as a special kind of causes. Since the actions have already occurred, the reasons for them are accessible to both the actor and the social scientist. The social scientist, however, has little or no concern for specifically individual motives. He wants above all to grasp the typical motives that led certain kinds of people, in certain circumstances, to do what they did. Moreover, the typical motives grasped by the social scientist, for Schutz, are not the final goal of his work. They must be related to the common-sense concepts of the life-world, if they want to claim any scientificity. Schutz labeled this relation the postulate of adequacy (Etzrodt, 2013, p. 31).

Because-motives have their roots in someone's former lived experiences, which determine the agent's present biographical situation; together, these experiences and their outcomes constitute the stock of knowledge available to grasp the present situation. The distinction between in-order-to motives and because-motives is central to an understanding of Schutz's theory of action. The distinction is not always easy to grasp, but the following example may help us. Suppose that I say that "the individual A undertakes the action B to get the state-of-affairs C". I am speaking of in-order-to motives; I suppose that A has a certain representation of C and looks at B as the surest way of getting it. The choice of B is determined by the knowledge at hand that A disposes of (Schutz, 1990, p. 20). However, someone could also say: "Circumstances X and Y explain the fact that A, since he wanted to get C, chose the means B to get it". Now, I am speaking of because-motives. The difference between the two can now be grasped. When we speak of in-order-to motives, the line that connects B and C is directed to the future; in the second case, the line that connects C with X and Y is directed to the past. Of course, a social scientist can follow the line B - C backwards, but in this circumstance his analyze will stop at B as the moment in which A, after having decided to get C, chose B as the most adequate means.

The observer and the agent don't share the same point of view. While engaged in action one is not focused on what one has acted: on the other hand, while acting one is always producing things enacted. (I am coining the expression "things enacted" to refer to the outcome of actions - the *Handlungen*, in German, in contrast to *handeln* -, which can be acknowledge as his own actions by a social agent.) This possibility is grounded on what Husserl, in his 1905 *Lessons on Time Consciousness*, labeled "double intentionality". This means that one can look either to the stream of one's intentional lived experiences or to what one intentionally addressed during the stream (William, 1973, p. 32). When the former case prevails, one becomes an observer of oneself and no longer remains just an actor. Of course, someone could argue that any in-order-to sentence can be rephrased in a because-sentence. It's true; however, the opposite is not true. This is clear if we think that although we can say that someone committed

a murder because he grew-up in a violent milieu, we cannot rephrase this because-sentence in an in-order-to sentence.

In contrast with because-motives, the in-order-to motives are always given to the agent in the agent's very acting. One is always aware of them. It is an orientation of the action to a future event, accompanied by the achievement of its goals in future perfect tense. For instance, if someone asks me: "why did you go out?" my answer can be: "in order to meet my friend".

In-order-to motives refer to a future state that an actor wishes to bring about by his actions, a future state that he imagines as having already been accomplished by these actions. Otherwise, he would not even begin to act. What makes it possible for me to imagine the outcome of the actions that I will carry out is the fact that I have already carried out in the past similar actions in similar situations, at least according to the knowledge I have regarding the situation in which I now find myself. Of course, I am not going out for the first time. However, since my former experiences of going out to meet someone proved successful, I retrieve the same behavior according to the idealization "I can do it again". From a sociological point of view, I am not going out for the umptieth time; I am doing a typical behavior.

The in-order-to motive is an important concept because it makes even more clear the temporal structure of the action. As we saw, an action is in the first place motivated by a desired outcome, or, in other words, by a different state-of-affairs that is judged preferable to the current one. Insofar as an action is motivated by a desired outcome, it is legitimate to say that it tends towards the future, aiming to fulfill an expectation. As I have already said, an agent may be conscious of his in-order-to motives. It is possible, however, that he does not have them explicitly present while acting. Nevertheless, once the action has come to an end, retention gives the agent the possibility of going back to those motives that triggered his action. Another example may help us understand this fact. Suppose that someone decides to murder in order to get some money. During the execution of his crime, he is probably not thinking about his in-order-to motive. The cautious execution of his act, with the aim of not being caught, fills probably his attention (Schutz, 1990, p. 22).

I think it has become clear that events must be "lifted out" from the stream of consciousness to become clear to the agent and get a meaning. This process of "lifting out" an event is what I have called above "reflection". Reflections may start due to different factors, like for example a question addressed to the agent about his motives. The question will cause the agent to answer and to provide the information the person wants to get. That's what happens in a judicial interrogation in a court of justice, but this scheme applies in a great number of other everyday situations.

Now, suppose someone asks a simple question: "where is my black ball pen?" The motive is to fill the form to apply for a scholarship which is known to the person only. Another person simply understands that he needs a pen. To grasp the ultimate motive, he has to gather additional information and observation. Therefore, Schultz says that it is by no means certain that we truly understand each other in everyday life. Fortunately, this is not always necessary. Social relations are characterized by a certain level of anonymity. For Schütz, the relationship with the other is always marked by a process of typifications. This means that a set of sedimented experiences that form part of the stock of knowledge that the lifeworld has made available to us will determine in advance our expectations regarding that relationship; shared experiences in a common spatial-temporal framework give rise to an identical system of relevances.

Subjective expectations (in cases in which A expects that B will behave in a certain way) may derive from the fact that the social agents are acquainted with each other. If agents A and B are contemporaries in the same cultural environment (even if they never had a face-to-face

**3. Lived Experiences and Juridical Norms**



relation, i.e., if they don't have familiar, friendly, or professional ties<sup>4</sup>) it is natural that most of the expectations of A regarding the behavior of B will be fulfilled. However, contemporaries don't always share the same cultural environment. They may only have in common what Schutz labels a *Mitwelt*.<sup>5</sup> I quote:

[...] in the face-to-face situation, directness of experience is essential, regardless of whether our apprehension of the Other is central or peripheral and regardless of how adequate our grasp of him is. I am still Thou-oriented, even to the man standing next to me in the streetcar. When we speak of "pure" Thou-orientation or "pure" We-relationship, we are ordinarily using these as limiting concepts referring to the simple givenness of the Other in abstraction from any specification of the degree of concreteness involved (Schutz, 1974, p. 245).

This entails the fact that the expectations of fulfillment in the case of *Mitwelt* relations are merely hypothetical; nevertheless, the tendency to create a personal ideal type, with which our fellow men's<sup>6</sup> behaviors are supposed to match – as in our previous example of the post office employees –, is always felt. For now, it's important to add that juridical norms are made for the world of contemporaries, even if they apply to partners. If two persons sign a contract, it's irrelevant if they already know each other well, if they are seeing each other for the first time, or if they developed for each other a feeling of distrust.

Now, we face two very similar procedures, the procedure of the social actor in his biographical situation and the procedure of the social scientist. Both execute a reflective going-back to the social agent's real actions. However, the procedures of the social scientist are, so to speak, second degree constructions (Willame, 1973, p. 102), which means that they must be constructed upon the personal ideal types I mentioned above. One of Schutz's main concerns – a concern also felt by some Austrian social scientists and economists of his generation and of the precedent one – was to determine to what extent these personal ideal types correspond to the scientific models of social and economic behavior drawn by social scientists. Jurisprudence, for instance, badly needed some clarification about this issue. Allow me to make a quotation from Felix Kaufman:

The correct description of the legal method requires – as has been convincingly demonstrated within the Pure Doctrine of Law – two groups of separate, if not unrelated analysis, namely the determination of the legal proposition as such, i.e., of those moments which, by virtue of its content, make a sentence a legal sentence, and the determination of the legal context, i.e., of those moments that allow a legal proposition to appear as a legal proposition of a specific legal order (Kaufmann, 1931, p. 16).

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4 Schutz would say that in this case they don't share the same *Umwelt*. The German word *Umwelt* in this context may be translated into "world of partners".

5 For a first analysis of the meaning of this concept see Schutz (1974, p. 245ff.). Some distinctions must be taken into account here. In a Thou-relation I may never speak to my fellow men nor even have looked them in the eyes. I have a Thou-relation to someone who seats at my side in the bus, without speaking to him or looking at him attentively. However, the possibility of these two things happening is always there. A We-relation has a totally different character. Although I speak to and look at the post office employee, I don't have a thou-relation with him. I just count with the fact that he will fulfill his job, of which I may specifically know nothing about. For him, I am just a person who entered the post office because he wanted to send a letter by mail.

6 "Fellow men" is the usual translation into English of the German word *Nebennmenschen*.

The example of making a Testament can shed some light on the problems that arise not only when we keep to the distinction between a subjective and an objective meaning, but also when we distinguish the sociological fact that someone wants someone to inherit his assets and the normative framework that bestows a legal character to this will. Someone may think that he has made a Testament just by writing some words concerning the destiny of his assets in a sheet of paper and signing at the end of the sheet. If a court of law cannot accept that document as a real Testament, it's due to the fact that some norms for writing a Testament – norms belonging to the invariant domain of the legal acts – have not been respected.

Let's try to make all this a bit clearer. For someone who writes his Testament in a sheet of paper (knowing nothing about the formalities necessary to give such an act its legal force), being understood by whoever reads it in the future may be the only relevant problem. He is not making a true Testament – at least from a normative point of view – although he is truly expressing his wishes. He also believes that his intentions are interchangeable, i.e., if he found another person who did not understand the meaning of what he has done, he would be able to explain it easily. The jurist, of course, has quite another system of relevances.

Now, for the social scientist every human action has a certain degree of anonymity. If two different social actors A and B act in a certain way, the relevant factor for the social scientist is the norm according to which both act that way, not the specific biographical situations of A and B, or the particular way both understand the norm, or whatever motives they have for accepting it. As Schutz would say, the social scientist only cares for the objective meaning of the action (Schutz, 1974, p. 42).<sup>7</sup> Here one could make use of the concept of truth and say that someone that has just made a list of his assets, stated the will to make of someone his heir and signed it has not made a true Testament. A true Testament is the statement of a will made in accordance with some juridical norms that give that statement an efficacy that otherwise it would not have. Moreover, these norms are a part of a system of juridical norms established in compliance with certain procedures. Following Kelsen's terminology, we could say that only subject to this condition the juridical norms that validate a Testament have positivity. We can state what happened in a modal sentence: "it is not possible to make a valid Testament not using these norms":

$$\sim P (T \wedge \sim N).^8$$

These norms have a mandatory character, they constitute an obligation to everyone who wants to make a valid Testament. Regarding specific human actions, only in circumstances similar to this one are we allowed to use the word "necessary". That's the reason why I think that the question: "is an ineffective norm still a norm?" must be answered in the affirmative. A true norm is just a norm that has been made in accordance with certain formal procedures, regardless of the fact that everybody, only somebody or even nobody complies with it. It is, at least in my opinion, difficult to imagine what a false norm could possibly be. Perhaps one can think of two different cases: 1) a norm that establishes a human behavior that is impossible to carry out from a physical point of view; 2) a norm that establishes something that everyone would be willing to do if he or she had the right opportunity of doing it, However, the fact that A just fears the consequences of not respecting a norm while B agrees with its content may be irrelevant for a jurist, while the same fact can be relevant for a social

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<sup>7</sup> Of course, when A tries to understand the action of B and B the action of A they are both looking for an objective meaning, although "objective meaning" here means a quite different thing than it does to the social scientist.

<sup>8</sup> P means "possible", T means "testament", and N means "acting according to norms. The signal ~ means "negation" and the signal  $\wedge$  means "and".

psychologist. The important issue here, regarding the methodological question, is the fact that the jurist and the social psychologist address the social reality on the basis of specific questions – according to their specific scientific domains – that will determine the answers they will get. For both, however, the specific individuality of A and B, the content of their stream of consciousness that accompanies the way both live the lifeworld situation in which they are engaged, is not relevant. Albeit both – the jurist and the social psychologist, and the same could be said, for instance, of the economist – always face individual actions, i.e., individual tokens of a universal type of action, it’s on the basis of universal types that they address the individual tokens. The specific biographical situation of an agent is not their business as social scientists. For them, what matters is what Kaufman labelled *Gelten auf Grund* (validity stemming from a basis): the validity of a Testament that stems from the fact that it was made on the basis of certain general norms (regardless of the person who made it, or the quantity of his assets).

**4. Problems of Meaning and Relevance**

Now, language enables men to share ideas about their respective worldviews and the respective systems of relevance (and the ensuing expectations) in their everyday lifeworld existence; for its part, imagination enables men to put themselves in the place of others and see things as they are seen by the others. (“As if I were there”, so to speak.) But this means two different things: 1) I can anticipate the possibilities of action of my fellow men, since we both share, to an approximately similar degree, the same system of relevances and the same system of norms; 2) I can put myself in the place of the others even when no other human being is factually present and evaluate my own action as it would be evaluated by another man, perhaps, ideally, by all the human beings that share with me the same evaluative community. Of course, I can figure out a stream of consciousness completely different from my own and imagine my real life, the world in which it occurs and the others with which I reciprocate, as well as our accepted normative framework, as being totally different from what they really are.

Language plays an important role here. Language is always more than a process of communication of specific information, a communication that would in any way be impossible if two conditions were not taken for granted: that a minimum of effort to understand each other sense-bestowing activities is put into practice by the one who speaks and by the one who hears; at the same time, that an effort is intersubjectively carried out in order to ground a common world of understanding, based in pragmatic motives. Of course, in special cases, observation of alien behaviors may also be a means of transmission of certain normative values, like it happens frequently when someone has to live in a foreign evaluative community, but without the help of language the process of transmission would be less efficacious and more ambiguous.

The normative contexts we live in have been constituted in polythetic acts (Husserl, 1950, 293ff.); this means that the layers of meaning they possess are always a synthesis of various intentionalities. To be fully explained and understood, those polythetic acts must be retrieved in each of their phases, but of course no one needs to retrieve all these phases when acting according to a norm. Sometimes, a monothetic act – in which the content of the norm is evoked – , for instance, a sentence like “this cannot be done”, said at the appropriate moment of time, will be enough. As Husserl stated in *Ideas I*: “To every such many-rayed (polythetical) constituting of synthetical objectivities – which, according to their essence can become conscious “originaliter” only synthetically – there belongs, according to an eidetic law, the possibility of *converting what is conscious in many rays into what is conscious simpliciter in one ray*, the possibility of “making objective” in a “monothetical” act *in the specific sense* what is constituted synthetically in the first act” (Husserl, 1950, p. 294). Schutz put it nicely in the following terms: “I grasp the field monothetically by one single ray, and I find that there

is a coincidence between the actual monothetic experience and the recollection – and the monothetically recollected, previous one” (Schutz, 1996d, p. 267).<sup>9</sup>

Now, what about relevance? First, let’s make clear that we don’t live exclusively concerned with the normative correctness of our actions. While driving my car, I may be attentive to the legal maximum of speed allowed or to other basic traffic rules, but my immediate concern will be, perhaps, the amount of traffic and how it will delay or not my arrival to an appointment. Shall we say that norms are not relevant in this situation? The answer must be “yes” and “no”. Lifeworld experiences are characterized by full attention to life, not to the normative frameworks.

However, as Schutz has shown, men live in multiple realities; and they can live in more than one at the same time (partly because they overlap, partly because one can go freely from one level of reality to another). What is relevant at one level may not be relevant at another, but most of the times the systems of relevance seem compatible. The fact is that in the business of living norms are sometimes “neutralized”.<sup>10</sup> They have not become ineffective – which would mean that they have lost all relevance – , since I got the habit of acting inside the framework they establish for my behavior. They can be recalled at any moment (at least in principle) monothetically. Sometimes, in more complex situations, they must be polythetically retrieved, which of course largely depends on my stock of knowledge. However, most of the times they don’t need to be thematically present.

The Schutzian concept of “provinces of meaning” may also help us here. A province of meaning is not a set of objects with a similar ontological structure, but rather a set of objects defined by the relation they have with the subject’s experience (Schutz, 1973, p. 23). Juridical norms are a province of meaning, constituted by a certain kind of intentional acts characteristic of the community of jurists. Those norms establish the framework within which human actions are legal human actions. Now, normative predications can only describe in a typified way life situations with a possible juridical meaning. This typified way may derive from many kinds of experiences, but not in the empiricist meaning of this word; rather it is a constructive process that resorts to abstraction, generalization or formalization. Clearly, this is not the way types are constructed in the lifeworld (Schutz, 1974, p. 343). We face then two different cognitive styles: the style of the social scientist and the style of the lived experience in the lifeworld. The job of a phenomenology of the social sciences is to show how the former grounds itself in the latter (Schnettler, 2007, p. 107).

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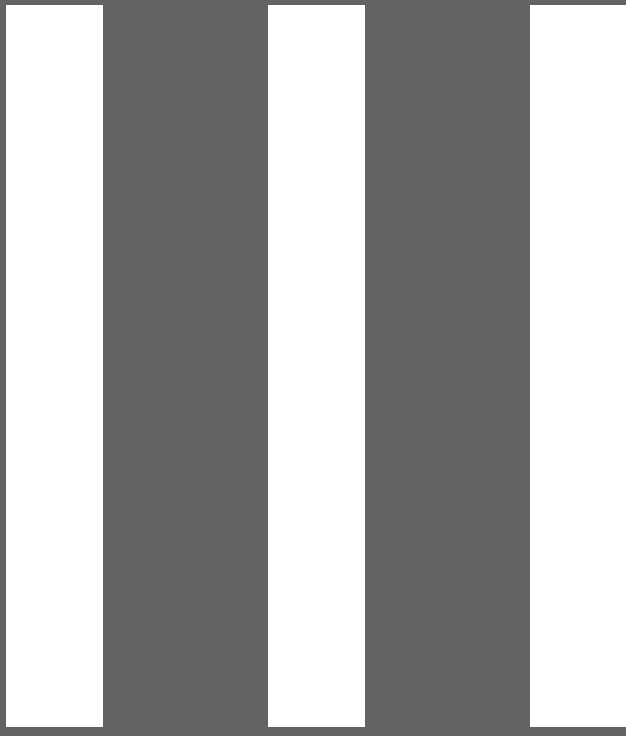
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<sup>9</sup> Schutz stresses the fact that there is a difference between this monothetical intentional ray and the phenomenon of passive synthesis. This is a rather technical issue that I will skip here.

<sup>10</sup> In a manuscript belonging to the project of an unfinished book Schutz (1996a, p. 69) speaks about the difference between “knowledge at hand” and “knowledge in hand”. Neutralization means that norms are not “in hand”.

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# SECTION



# SECTION III

TRUTH, VALIDITY, AND NORMATIVITY

*Pedro M. S. Alves*

A Phenomenological Analysis of the Nomothetic Noema. Discussing the *De Dicto* and *De Re* Formulations of Normative Sentences

*Wojciech Żelaniec*

Things We Must Never Do (If Any)

*Sara Papic*

Can Linguistic Correctness Provide Us with Categorical Semantic Norms?

*Virginia Presi*

Custom in Action. Ferdinand Tönnies' Ontology of the Normative

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# A PHENOMENOLOGICAL ANALYSIS OF THE NOMOTHETIC NOEMA. DISCUSSING THE *DE DICTO* AND *DE RE* FORMULATIONS OF NORMATIVE SENTENCES

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## *abstract*

*In this paper, I examine phenomenologically the structure of the normative noema, which I call the “nomothetic noema.” I distinguish the meaning content, its normative characters, which I call “ductive forces”, and its modes of givenness. Next, I introduce the traditional difference between modalities de re and de dicto. I argue that the current tendency, in deontic logic, to treat deontic expressions as operators over sentences induces, at least on the syntactic surface, a de dicto reading. I then discuss some of the theoretical decisions that underlie deontic logic, starting from two basic asymmetries between modal alethic logic and deontic logic. The decisive point is to recover a strong sense of permission that I equate with the factor of free agency, which is difficult to formalize. Finally, I return to the analysis of the nomothetic noema and try to show how a de re reading is better suited to account for normative intentionality. I simultaneously introduce the concept of status-imposing norms, which must be formulated with a normative use of the copulas “is” and “has.” I conclude that the treatment of normative expressions is more appropriate when they are understood as complex copulas, irreducible to assertive sentences, rather than as operators over whole sentences. I emphasize on this occasion that, from a phenomenological point of view and within the framework of genetic analysis, the primitive basic datum is the freedom of agency, on which the normative domain of assigning statuses to agents, obligations, and prohibitions is built.*

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## *keywords*

*normativity, phenomenology of norms, de dicto/de re, deontic logic, agency*

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### 1. Basics About Husserl's Concept of the *Noema*

Phenomenologically, a noema is the correlate of an intentional act. In so being, every noema points back to a corresponding noesis, or act, or to a multiplicity of noeses along with their internal constituents. However, it remains an open question whether every noetic element of consciousness necessarily has a correlative noematic unity. I think not. In fact, there are noetic elements that only when animated by a meaning-conferring act acquire a relation to an object, such as the esthetic data, or the thymic or orectic contents of consciousness. By themselves and in isolation, without being constituents of an encompassing intentional act, these latter noetic elements have no corresponding noematic correlate: they form the “hyletic” part of the contents of consciousness in opposition to the intentional *morphé*, as Husserl put it. This entails, firstly, that the noetic-noematic correlation is not of a one-to-one type but between a multiplicity of noetic elements, on the one hand, and the unity of the noema, on the other. By the same token, it also entails that a full noema is not, as said, a sheer and monolithic unity but has several constituents corresponding to the noetic multiple elements.

The classical conceptual characterization of the noema, stemming from Husserl's *Ideas I*, amounts to the following:

1. Regarding its *transcendental place*, the noema is *immanent* to consciousness, while its immanence is not *real (reell)*, as the noetic components, but instead *intentional*. This means that there is no noema where there is no intentional act. In the Husserlian mereological jargon, the noema is a dependent part of a larger whole, a founded content.
2. Regarding its *transcendental status*, the noema is an intentionally immanent *object*. This characterization can be misleading, however. It does not mean that the noema is the object to which one is intentionally directed. It will be senseless to say that consciousness is directed to micro-objects that would be intentionally immanent to it. On the contrary, normally (i.e., not in second-order reflective acts), one is intentionally directed to the objects out there, which phenomenology names the *transcendent* objects. In so being, when affirming that a noema is an object, this means either that the noema is the object intended in its ways of givenness or that it is an abstract sense-content through which a transcendent object is intended. The former interpretation is generally attributed to Aron Gurwitsch, who took the perceptual noema as his model for analysis, soon generalizing the results for every kind of noema whatsoever.<sup>1</sup> The latter stems from a seminal paper

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1 See, for instance, his early French work on the theory of constitution, where one can read successively that “The

by Dagfinn Føllesdal, where the noema is equated with a Fregean *Sinn*, even though the sense is only a partial element of the full noema.<sup>2</sup> This clash of interpretations gave rise to the famous East-West Coast debate about the status of the noema. My construal partially sides with the West-coast position by Dreyfus, D. W. Smith, and R. McIntyre, among others, which follows Føllesdal's interpretation of the noema as a *non-thematic* mediator, which, I add, is only accessible through noematic reflection. Being the *Sinn* unthematic and only directly accessible by a higher order act of reflection, my construal, though, puts severe limits to an internalist account of intentional reference as solely determined via meaning-content, partially avoiding intensional contexts and reference opacity.

3. Regarding its *phenomenological composition*, the noema contains a meaning-core called *Sinn* or *Bedeutung*, depending on the level of expression (*Ausdruck*), that points to an objectual *X*, which contains both the *mode in which the object is intended*, the so-called *Gegenstand im Wie seiner Bestimmtheiten*, and the very object that is intended, which Husserl designates as the *Gegenstand schlechthin*, the object *simpliciter*, or the object about-which, the *Gegenstand worüber*. Additionally, besides the sense-core with its objectual *X*, the noema also covers both the manner of givenness (as directly present, remembered, given through an image, symbolically, and so on) and the characters of being (such as existent, probable, inexistent, fictional, and so on). In a nutshell, the noema is a composite of a sense-core with its objectual *X*, plus the manners of givenness and the characters of being, which are often but wrongly taken by each other (not rarely one sees, for instance, thethetic character of existence construed as perceptual presence, while, rigorously, the mode of "being bodily there" concerns the way of givenness and not thethetic character as such: a thing can be posited as existent while being only symbolically given, and so on).
4. Regarding its *ontological characterization*, according to my Fregean- or Føllesdalian-like interpretation (and according to Husserl himself, let me say), the noematic unity of *meaning* (*Sinn*) can be taken as an *ideal entity* that remains identical for an open multiplicity of different acts, which is denominated a *proposition* (*Satz*), in the case of polythetic noemata, or a *name*, which can be either simple (a "proper name") or obtained by the nominalization of a previous proposition. The noematic sense, as a proposition, is what is meant or said as such, the judged-as-such, the intended as intended, briefly, the *dictum* of a sentence, or the *sense* of an intentional act considered *per se*.
5. Finally, the *propositional meaning* as such, or the ideal sense of the noematic core, receives a truth-value if and only if there is a (transcendent, in the normal case) state of affairs (*Sachverhalt*) that corresponds to it, and that correspondence is accounted for as a possible synthesis of fulfillment (*Erfüllung*) between the intending act and the corresponding intuitive act. If not, it is false in what it says. In so being, every noema which is well-formed, according to the morphological and syntactical laws of sense-formation and sense-derivation, says something about something and is not, in itself, either true or false. "The Fountain of Youth is in Florida" is an instance of such unity of well-formed propositional sense. It says, about the fountain of youth, that it is in Florida. Only when one intends to search for its supposed *Gegenstand-worüber*, and examine what is said about it, namely that it belongs to the set of things that are to be found in Florida, proves the noematic sense to

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noema of a perception is the thing as it presents itself under this or that aspect and in this or that quite determinate fashion [...]", and then that "[...] one can and should allow for the noemata of memory, expectation, judgment, volition, etc., by defining the noema in general as the object such, and only such, as it plays a role in a particular act in which one becomes conscious of something [...]" (Gurwitsch, 2009, pp. 132-133).

2 For instance, "[...] the noemata are like linguistic *Sinne* in most respects. Thus, the following important consequence of thesis 1 should be noted: 8. Noemata are abstract entities" (Føllesdal, 1969, p. 684).

be false because, definitively, there is neither a transcendent object nor a state-of-affairs whose givenness could enter with it in a synthesis of fulfillment. This situation of an impossibility for a synthesis of fulfillment becomes crystal clear in those cases where the object, in the way it is intended, contains an internal, self-destructive contradiction, like ironwood, round square, etc.

**2. On the Noematic Sense-Core of Norms and Their Complements**

It seems quite easy to apply to *norms* the structure of noemata I have just highlighted for *thetic* acts. Indeed, it would be enough to substitute, on the noetic side, doxic acts of belief with acts of the will and, on the noematic side, characters of being with modalities of volitional positings. The noetic-noematic correlation will follow identical lines for every element of the noema, so that, *mutatis mutandis*, nomothetic acts, and their correlated normative noemata, as well as the corresponding normative states of affairs, would display an isomorphic structure. Things are not so simple, though. As Kelsen rightly stressed regarding the *Normsatz* that describes the content of a *Rechtsnorm*, it does not mention an act of the will as a constitutive element but only contains a conditional judgment articulated by a logical ought and based on the principle of imputation: If *A* is the case, then a certain behavior *B* ought to be the case.<sup>3</sup> Albeit the norm itself, not the description of it, was defined by him as the *sense* (*Sinn*) of a willing act, the act of the will, he stressed, belongs to the realm of the *is*, while the norm belongs to the for him nonreducible realm of the *ought*.<sup>4</sup> As he was adamant in affirming, an ought can only come from another ought and so on upwardly until the *Grundnorm*, which no longer has a positive content. Further, one can add that a simple act of the will cannot be *eo ipso* a norm. For instance, I may desire all nations to live in peace, but this is not a norm, namely of international law, but only my ineffective wish. Thus, I can live in the will that *S* be *P*, but this is not tantamount to having a norm directed to other people's behavior (not even to myself). For the meaning of the volitional act to be a norm, other conditions should be supposed, and precisely these conditions are, above all, the most important for characterizing the nature of norms. Actually, Kelsen himself pointed out this important feature when he wrote, "[...] not every such act [of the will] has also objectively this meaning [of being a norm]; only if the act of will also has the objective meaning of an 'ought', is this 'ought' called a norm."<sup>5</sup> Thus, not all acts of the will are norms, and the acts of the will that are norms have conditions for so being that are above their volitional character. In terms of principle, I believe it is a step in the wrong direction to define norms as a subclass of volitional acts. This would be more appropriate for orders or commands, but norms should not be interpreted in an imperativist framework. Thus, the simple analogy between *thetic* and *nomothetic* acts through the mere twist between *doxic* and *volitional* characters suffers a first but decisive blow.

One all-important condition for something to be a norm concerns its *meaning content* or noematic core, i.e., the *Sinn* of the noema expressing a supposed volitional act. As it is generally said, norms must have *deontic* content objectively traceable in their meaning. This

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3 "[...] When the principle of imputation is applied, and when it is stated that under the condition of certain behavior, other behavior ought to take place, the term 'ought' has not its usual moral but a purely logical meaning. It designates, like causality, a category in the sense of Kant's transcendental logic" (Kelsen, 1967, p. 44).

4 "Norm is the meaning of an act by which certain behavior is commanded, permitted, or authorized. The norm, as the specific meaning of an act directed toward the behavior of someone else, is to be carefully differentiated from the act of will whose meaning the norm is: the norm is an *ought*, but the act of will is an *is*. Hence the situation constituted by such an act must be described by the statement: The one individual wills that the other individual ought to behave in a certain way" (Kelsen, 1967, p. 5).

5 Kelsen, 1967, p. 7.

feature essentially belongs to their nomothetic noema as a differentiating element regarding thetic noemata. Even though normative language is fully variegated and can be articulated in ways that omit deontic expressions, the essential point is that, in the propositional description of the content of norms, at least one deontic expression shall appear. In my view, a short list of such fundamental deontic expressions is the following:

1. The normative *is* and *has* (henceforward, “*is<sub>n</sub>*”, “*has<sub>n</sub>*”), as in the norms “The age of majority is 18 years”; “Citizens have political and social rights.”
2. At least, the threefold deontic expressions *prohibition* (“*F*”), *obligation* (“*O*”), and *permission* (“*P*”), which can be defined one by the other. For instance, taking permission as basic,<sup>6</sup> one defines the prohibition of *X* as the non-permission of *X*, and the obligation of *X* as the non-permission of *non-X*. Further, regarding contraries, if *X* is permitted, then *non-X* is also permitted (unless the permission follows from an obligation of *X*; I will argue this point later); if *X* is obligatory, then *non-X* is prohibited; if *X* is prohibited, then *non-X* is obligatory.

However, the sense-content of the noema is not enough to shape a norm. Obviously, being it a necessary condition, other elements must be added. A second crucial element regards the *ductive force* of the norm, i.e., the way it motivates or conditions behavior. In fact, norms have different qualities or forces. In the face of a norm that prescribes some behavior, one must always know whether it is something with a peremptory, binding force, or otherwise something that is no more than a recommendation, a guideline, or a piece of advice, by which one must not necessarily abide. Norms of etiquette, for instance, have the later ductive force, but also, in the juridical realm, customary law, when not recognized by state law and if not contrary to it, and recommendations issued by the competent authorities or the dispositions commonly referred to as “soft law.” Indeed, regarding its sense-core, a norm can express an obligation (for instance, “during a speech, people should listen in silence and abstain from heckling the speaker”). Still, it can be no more than a recommendation when its ductive force is considered (in the example, suppose it is a speech at a political rally). The variation of ductive force in the nomothetic noema mirrors the variations of the characters of being in the thetic noema. On the latter, they range over a series that has existence and non-existence in its extreme points, passing through possible, probable, assumed, and so on. On the former, they go from peremptory force to ineffectiveness, passing through recommendation, counsel, suggestion, and so on.

In addition, besides deontic sense and ductive force, norms display something like a variety of modes of givenness. Some norms or a closed set of norms, no matter their deontic sense and ductive force, may be taken as effective standards for behavior. In contrast, others may appear to an agent as being at an ever-increasing “distance,” to the point where they appear to her as strange or alien, as not being authentic norms for her (or “true,” in a *de re* rendering of truth, as Amedeo G. Conte suggested<sup>7</sup>). The degree of subjective commitment to a given set of norms, the agent’s “moral ideology”, to use Kelsen’s expression, determines how they appear to her on a nuanced scale between authentic and inauthentic. For a believer, for example, the norms that regulate her cult appear as authentic, while the norms concerning other different cults appear with the mark of inauthenticity. The same with laws: citizens of a certain country have their state laws mostly as authentic norms, while the norms of other states, especially in the case where they are very different in their legal cultures, are not only ineffective for them but,

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<sup>6</sup> I will explain later why I take permission as basic, not obligation, as it usually happens. Incidentally, I follow von Wright in his first system of deontic logic (von Wright, 1951b).

<sup>7</sup> See Conte, 2016.

above all, appear as norms that do not raise an internal commitment. A case in point is the norms of social behavior across generations: many codes of conduct that supported the social life of a given generation appear to new generations as norms stripped of authenticity and are eventually replaced by others. These shaded differences between authentic (or “true”) norms and norms appearing at an increasing “distance” up to the extreme point of inauthenticity shall be accounted for as the way norms are given to an active subject. They also belong to the internal structure of the nomothetic noema.

Thus, a theory of nomothetic noemata should cover the entire palette of deontic meaning and forms of ductive force and modes of givenness. However, my main concern in what follows will be about the meaning-structure of deontic sentences, for briefly returning to the other characters only in the last section.

### 3. Deontic Sentences in Light of the *De Re*, *De Dicto* Distinction

Now, the issue I shall deal with employing some phenomenological insights concerning the morpho-syntactical structure of norms concerns the *place* the deontic expressions shall have in the sense-content of the nomothetic noema.

An insight that, to my knowledge, stems from Leibniz amounts to treating deontic expressions by a strong analogy with modal alethic logic, so that the following pairs are obtained: Necessary/Obligatory; Contingent/Not-due (Optional); Possible/Licit (Permitted); and Impossible/Illicit (Prohibited). As far as I can see, he considers them as *modal operators* applying to the *dictum* of simple sentences that declaratively express some course of behavior. As he stresses, in so being, “the theorems on modals can be transferred here” so that “as many new propositions can be stated about the just and unjust.”<sup>8</sup> Clearly, and not disregarding other possible sources, this specific move is accomplished by analogy with the alethic modal logic that comes from Aristotle.

Notwithstanding Leibniz’s ingenious breakthrough of construing (and finding) the deontic operators as counterparts of the alethic modal expressions, there are dark areas in the analogy. Firstly, some basic theorems of alethic modal logic are not transferable to the logic of deontic expressions, as it is well known (I will stress it later). Secondly, looking at the simple linguistic surface of modal sentences, it is undecidable whether Aristotle treats modal expressions as operators on propositions (syntactically, a kind of unary predicates, like negation) or as complex predicates within propositions (composed copulas of the adverbial kind, such as *is-necessarily*, *is-possibly*, and so on). Indeed, his closer discussion of the difference appears in a passage of *De Sophisticis Elenchis*, where he considers not modality but the fallacies of composition and division (*vide* 166a 23-31). However, as I intend to point out, this is an important issue. In the medieval tradition, Abelard was the first to draw a distinction between two ways of analyzing a sentence containing modal expressions: *de sensu* and *de re* or *rebus*. While he maintains that every modal sentence is a statement about the *dictum* of another statement, he concludes that an *authentic* modal sentence must be formulated *secundum expositionem de rebus* (see Kneale, 1966, p. 624). Thought, the *de dicto*, *de re* distinction as it is used nowadays goes back to Aquinas. He rightfully stressed that there are two ways of inserting modal expressions in propositions. As he states, the two possible forms give rise to a *de re*, *de dicto* distinction in the syntactic and semantic content of modal sentences:

A modal proposition is either *de dicto* or *de re*. Modality is *de dicto* in which the whole

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<sup>8</sup> “Uti se habent inter se necessarium, contingens, possibile, impossibile; ita se habent debitum, indebitum, licitum, illicitum. [...] Hinc patet Theoremata de Modalibus huc transferri, ac totidem novas propositiones circa justum et injustum enuntiari posse” (Leibniz, 1999, p. 2762).

dictum is made the subject and the mode is predicated, as in ‘that Socrates runs is possible’; modality is *de re* in which the mode is inserted into the dictum, as in ‘Socrates is possibly running.’<sup>9</sup>

According to Thomas Aquinas, a modal expression such as “Necessary” can be either the predicate of the whole *dictum* of a simpler proposition, as when stating “Necessarily, Socrates is mortal”, or it can be construed as belonging to the copula itself, as when one says, “Socrates is necessarily a mortal being”. The difference is not immaterial. Indeed, on the *de re* reading of modal propositions, one finds a drift toward an essentialist view, given that a modal expression such as “necessary” is not accounted for as a predicate of the whole non-modal sentence but instead as belonging to the very copula as if the subject would have necessarily such and such predicates. Despite the difference in meaning, in this early treatment of the distinction, there is no clear decision for rigidly framing modal sentences either in the *de dicto* or *de re* patterns. A telling case is the wavering of the Pseudo-Aquinas between the two forms in his *Summa Totius Logicae Aristotelis*, together with the assertion that only *de dicto* formulae are truly modal ones.<sup>10</sup>

Certainly to contravene this essentialist trend, as Novaes suggested (Novaes, 2004), the nominalist William of Ockham proposed a new interpretation of the *de re*, *de dicto* distinction. In his account, modal propositions are *cum dicto* or *sine dicto* (the equivalent to the adverbial use of modal expressions, as in the Aquinas’ *de re* mode). Importantly, the former propositions are, for him, reducible to a pair formed by a simple proposition with a deictic, denoting some individual, and another with a *de dicto* modality. In his own words, for a proposition *cum dicto*,

It should first be noted, as was just said, that by means of such a proposition it is always asserted that such a mode is verified of what is said in the correspondent whole proposition.<sup>11</sup>

While for a proposition *sine dicto*,

[It is required] that the mode expressed in such a proposition be truly predicated of an assertoric proposition [*propositione de inesse*] in which the very same predicate is predicated on a pronoun indicating that for which the subject stands [*supponit*].<sup>12</sup>

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9 “Propositionum utem modalium quedam est de dicto, quaedam est de re. Modalis de dicto est, in qua totum dictum subiicitur et modus praedicatur, ut dicitur Socrates currere est possibile; Modalis de re est, in qua modus interponitur dicto, ut ‘Socratem possibile est currere’.” (Thomas Aquinas, 1976, p. 421). I’m using Uckelman’s translation (Uckelman, 2008).

10 “[...] notandum quod quaedam sunt propositiones modales de dicto, ut Socratem currere est necesse; in quibus scilicet dictum subiicitur, et modus praedicatur; *et istae sunt vere modales* [my emphasis], quia modus hic determinat verbum ratione compositiones, ut supra dictum est. Quedam autem sunt modales de re, in quibus videlicet modus interponit dicto, ut Socratem necesse est currere: non enim modo est sensus, quod hoc dictum sit necessarium, scilicet Socratem currere; sed huius sensus est, quod in Socrate sit necessitas ad currendum” (Pseudo-Aquinas, 1864, tract. 6, cap. 11, 91081). On the other hand, when exposing the forms of modal syllogisms, Pseudo-Aquinas waivers quite erratically between *de dicto* and *de re* formulations of them as if they were equivalent (see Pseudo-Aquinas, 1864, tract. 7, cap. 13).

11 “Primo igitur sciendum, sicut dictum est quod semper per talem propositionem denotatur quod talis modus verificatur de tota propositione correspondente dicto” (Ockham, 1974, cap. 9, pp. 28-30)

12 “[...] ita scilicet quod modus expressus in tali propositione vere praedicatur de propositione de inesse, in qua ipsummet praedicatum praedicatur de pronomine demonstrante illud pro quo subiectum supponit [...]” (Ockham, 1974, cap. 10, pp. 14-16)

In a nutshell, according to Ockham's reductionist account, a *sine dicto* proposition like "A is necessarily B" should be disaggregated in the pair of propositions "X is B", where X is a deictic that stands for an individual, and in the proposition "That X is B is necessary" (by force of logical implication, for instance), at once avoiding including modalities in the copula and putting them instead as qualifying the whole sense of a non-modal proposition. The modal predicates become, thus, always operators modifying the *sense* or *dictum* of a basic non-modal proposition, *pace* Thomas Aquinas' former alternativist account.

Importantly enough, the *de re*, *de dicto* distinction was resurrected in the 20<sup>th</sup> century by von Wright, in his 1951s work *An Essay in Modal Logic*, where he made a direct reference to Aquinas' distinction.<sup>13</sup> Albeit recognizing that modalities of whatever kind (alethic, epistemic, deontic) can be treated either *de re* or *de dicto*, the decisive step he took was to consider deontic logic by analogy with alethic modal logic and to develop a whole system of deontic logic with deontic expressions applying to act-predicates (not to propositional expressions, as it now the normal case). The step was taken in the famous 1951 essay on deontic logic, where the correlation settled in the work on modal logic between modal and deontic operators was fully developed. Thus, based on the correlation between the necessary and the obligatory, the impossible and the prohibited, and the possible and the permitted, already present in the essay on modal logic, the whole system of deontic sentences was presented with deontic modalities for generic act-predicates and not as complex copulas (von Wright, 1951b). Later work on deontic logic that led to SDL operated a decisive modification when, instead of act-predicates, the basic propositional logic was used with variables for sentences, *p*, *q*, etc., and the deontic expressions were thus treated as modal operators applying to whole sentences. Putting deontic expressions as modal operators on top of variables for sentences favored the choice for the *de dicto* formulation, at least on the syntactic surface. Indeed, the similarity became apparent since the formal presentation of a deontic sentence took the form of a modal operator on a proposition: *Op*, *Fp*, etc.

However, there is something intuitively strange about the decision favoring the *de dicto* rendering. Under it, a deontic sentence is interpreted as a complex of a unary operator (*O*, *P*, *F*, and others) plus its argument. The argument is a declarative sentence that can be true or false, describing some action in the framework of a state of affairs. Thus, "*Op*" means in natural language that "*it is obligatory that p*" or "*that p is the case is obligatory.*" Filling in the argument, one obtains, for instance, that "*it is obligatory that citizens abide by the state laws*" or "*that citizens abide by the state laws is obligatory.*" If one detaches the declarative sentence from the deontic operator, then one gets a pure description of a supposed *fact*, to wit, *that citizens abide by the state laws*. One can then wonder: Is this fact true or false? What are the truth conditions of deontic sentences, then? Do the deontic operators have anything to do with obtaining the facts that the sentences describe? I think these are inevitable but dependent questions, dependent, namely, on the initial decision of putting deontic expressions under the *de dicto* form. And there is an answer to them due to Kripke's possible world semantics for modal sentences. Indeed, his ingenious idea was to circumvent the intensional character of modal logic by framing a device to recover extensionality. In this framework, the great step was to interpret the modal operators not as unary predicates of a *dictum*, as they syntactically appear to be, but rather as *quantifiers over possible worlds*. The idea is appealing, indeed. The modal

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13 "Sometimes we consider the modes in which a proposition is (or is not) true. A proposition is pronounced necessarily, possibly, or contingently true. Sometimes we consider the modes in which a property is present (or absent) in a thing. A property is pronounced necessarily, possibly, or contingently present in a certain thing. Aquinas made this distinction, when he said that the modal assertion could be *de dicto* or *de re*. We shall employ his terminology" (von Wright, 1951a, p. 1).

operator of the necessary, for instance, can be interpreted as the fact that some state of affairs  $p$  obtains in all conceivable (and “accessible”) possible worlds. *Pace* Descartes, who defends an intra-mundane conception of necessity based on the unbound will of God, the idea seems intuitively obvious. If something is necessary, it must be true in all *conceivable* possible worlds, as Leibniz has long before stated against Descartes’ conception of the *vérités éternelles ou de raison*.<sup>14</sup> By the same token, the possible can be equated with truth in some possible worlds and falsity in other worlds; the impossible, with falsity in all possible worlds, and so on. Dispensing with technicalities, the same seems to be feasible for deontic sentences. Following Kripke, it is a question of defining a deontic model structure,  $\mathfrak{M}$ , by the triplet  $\mathfrak{M} = \langle K, W^a, R \rangle$ , where  $K$  is a set of possible worlds,  $W^a$  is the actual world, and  $R$  the non-reflexive, accessibility relation of deontic alternativeness, and then constructing a deontic model by the ordered pair  $M = \langle \mathfrak{M}, V \rangle$ , where  $V$  stands for the valuation function  $V$  from  $Va$  to the set of logical values  $1 = \text{true}$  and  $0 = \text{false}$ . So, the function  $V$  assigns a definite truth value for the variables  $V^a$  on worlds in the non-empty set  $K$ . Accordingly, following the definitions of Necessity and Possibility, Obligation and Permission can be defined by the formulae (see Woleński, 2018, which I follow here):

1.  $V(Op, W^a) = 1$ , if and only if, for any  $W \in K$  such that  $WRW^a$ ,  $V(p, W) = 1$
2.  $V(Pp, W^a) = 1$ , if and only if, for some  $W \in K$  such that  $WRW^a$ ,  $V(p, W) = 1$

As a result, the deontic operators are resolved into the satisfaction or not of the state of affairs  $p$  in the relevant possible worlds. An obligation, for example, is now tantamount to asserting that  $p$  is the case in all relevant possible worlds accessible from the actual one by  $R$ . Being  $R$  a relation of deontic *alternativeness*, it is understandable that  $W$  is a *relevant* possible world if  $p$  is the case there, i.e., if it is a world where  $O$  happens to exist and is fulfilled. Indeed, suppose the obligation exists but is not always or almost fulfilled. In that case,  $W$  is not a relevant possible world for deontic alternativeness because it is a world in which precisely the same situation occurs as in the actual world. As a result, one is filtering  $K$  for deontically *perfect* worlds, where what happens is just what shall be the case. We have, thus, moved from sense to extension, making the extensional facts of alternative deontic worlds and their truth or falsity stand for the *sense* of the deontic expressions.

However, it is strange to say that an obligation, for instance, is *true* if what it commands is the case in all possible relevant worlds. Indeed, a deontic sentence is not a norm but a *description* of a norm. Regarding the latter, it is neither true nor false but either valid or invalid. If valid, it has some degree of ductive force, which does not enter the syntactical and semantical content of the norm itself. Deontic *logical* constraints do not apply to it as such. Regarding the former, a deontic sentence is true if it rightfully describes the meaning content of the norm. Typically, a *norm* does not state that some *fact* of the actual world is the case. It does not talk about facts at all. It only states that some agents (say, for returning to the example, some individuals in the capacity of citizens) are obliged to do this or that (say, to respect the duties of citizens) or are permitted, prohibited to do some other things. Thus, according to their proper sense, the truth

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<sup>14</sup> When one expresses Leibniz’s thesis in this way and writes explicitly in all *conceivable* possible worlds, it becomes apparent that the argument is based on what appears to be a *petitio principii*. The worlds are conceivable from precisely the truths of reason, and therefore the argument merely says that in all worlds conceivable from these truths of reason, these truths of reason hold. Descartes’ point was God’s possibility of freely creating one world with other truths of reason. Of course, these other truths of reason (and the corresponding worlds) are not accessible through the truths of reason belonging to the actual world. They are an empty set. However, their possibility is based not on what is conceivable but on the concept of an unbounded will. At the end of the story, Leibniz’s argument seems weaker than it first appears.



conditions of deontic sentences do not go in the direction of facts. They go in the direction of the norms they express. And the norms do not talk about facts but instead about exigences about what the facts *shall be*. As a result, the deontic sentence “it is obligatory that  $p$ ” is true not if  $p$  is the case in all relevant possible worlds. It is true if, in the actual world, there is a corresponding *norm* obligating that  $p$  in a given juridical, ethical, social code or other.

**4. Two  
Recalcitrant  
Asymmetries in  
the Traditional  
Approach to  
Deontic Modalities**

What I shall say in what follows is not tantamount to belittling the magnificent and subtle work deontic logicians have done. Quite the contrary. It is merely the endeavor of discussing, in a neutral region and based on the sense content of norms as phenomenological analysis can reveal it, some major decisions that have led to the quasi-evidence that a *de dicto* formulation must be given to deontic sentences. The weird situation plaguing this approach from the very beginning is that there is no strict symmetry between modal alethic logic and deontic logic, i.e., between the *de dicto* interpretation of modal alethic logic and the *de dicto* interpretation of deontic sentences. Two well-known asymmetries are worth noting for my proposes. Firstly, the axiom that is included in the modal system called T or M, which expands the weaker system K, states that

1. If it is necessary that  $p$ ,  
then  $p$  is the case. (T)

Clearly, this cannot be a theorem for deontic sentences in the *de dicto* interpretation, given that agency enters the situation and, thus, the power of choice for acting or not accordingly. In so being,

2. If it is obligatory that  $p$ ,  
then either  $p$  or *not- $p$*  is the case. (T)

In fact, the conclusion that  $p$  is the case is simply false by the internal logic of obligation as a command directed to someone with a power of choice and, thus, with a capacity to decide her behavior and be responsible for it. Indeed, if, for instance, a nomothetic sentence prescribes that citizens must abide by a certain law, it does not follow that it is a fact that every citizen abides by that law. In the maximal case, it could happen that nobody would abide by it. Thus, one cannot have a symmetry with 1. ( $Np \rightarrow p$ ), writing:

3.  $Op \rightarrow p$  (F)

Føllesdal noted that Ernst Mally’s early deontic system included such a false theorem (theorem 20.), together with some other unacceptable theorems (like 12.  $p \rightarrow Op$ , and 21.  $Op \leftrightarrow p$ ). He writes: “(12) states that whatever is the case ought to be, and according to (20), the converse implication is also valid. Theorem (21), the conjunction of (12) and (20), states that  $p$  ought to be the case if and only if it is the case. (21) expresses the equivalence of *ought* and *is*. These theorems are strongly counterintuitive. Mally himself observes that (21) is undoubtedly the strangest one among the ‘strange’ theorems” (Føllesdal & Hilpinen, 1981, p. 4-5). However, I confess that Føllesdal’s formulation of theorem 20, namely “ $Op \supset q$ ,” is hard for me to find in Mally’s text. Indeed, Mally writes that, according to 20, “[...] everything that should be, should be equally, namely under all circumstances, unconditionally.” If I am reading him right, this does not mean that whatever should be is, but that all requirements have the same ductive force: unconditionality under whatever circumstances. Indeed, Mally expressly writes: “All that shall be, shall be equally.” Clearly, this does not entail that, in fact, what ought to

be is, but that all that ought to be shall have the same mandatory force. Accordingly, the strangeness of the theorem concerns its denial of the intuitive notion of degrees of ductive force and, thus, of weaker and stronger demands.<sup>15</sup> Additionally, Mally's theorem 22 (21, in Føllesdal's discussion), "The facts are to be," which for Føllesdal expresses the self-destructive thesis of the equivalence between *is* and *ought*, is commented by him as follows: "It states that *at least what is factual shall be* but leaves it *undecided whether the reverse is also true*" (Mally 1971, p. 256, my emphasis). The comment suggests the objectionable theorem 12., but it makes no room for the expression under discussion,  $Op \rightarrow p$ , to count as a theorem. Even though Mally wavers permanently between the deontic demand "the facts *are to be*" and the seemingly actual verification that "the facts *are*," he appears to pass over the intrinsic problem of the passage from  $Op$  to  $p$  more than to fall in the error that is imputed to him. Theorem 23 is a case in point. It reads, "the facts and what is absolutely demanded are equivalent." Apparently, Mally is crossing the line between *Sollen* and *Sein*. However, he adds in the very same sentence: "in terms of demand."<sup>16</sup> This makes clear that, for him, albeit his wavering between the two realms, the coincidence between *Sein* and *Sollen*, and the passage from *Sollen* to *Sein*, is not a factual assertion but is affirmed instead as an *exigence* intrinsic to the normative realm. Instead of affirming  $Op \rightarrow p$ , it seems that he is rather writing that  $O(Op \rightarrow p)$ , which is pretty acceptable: It is obligatory, i.e., it is a deontic *exigence* that, if  $p$  is obligatory, then  $p$  should be the case.

More attentive to the mentioned break of symmetry between alethic and deontic logic than Mally ever was, von Wright's strategy amounts to a circumvention maneuver. Given that to pass from  $Np \rightarrow p$  to  $Op \rightarrow p$  is a conceptual impossibility *cum fundamento in re*, so to speak, because it elides the agency factor, he proposes to substitute the former by the weaker axiom for tautologies ( $t$ ), stating that  $Nt \rightarrow t$ , so that a weaker deontic axiom follows, namely  $Ot \rightarrow t$ . However, the assumption that tautologies are obligatory is hardly understandable. Really, it does not make sense. Accordingly, von Wright reaches a second formula,  $\sim O\sim t$ , which, as he writes, "seems not only to make sense but also to be true" as it "says that a contradictory state of affairs is not a state which ought to be the case" (von Wright, 1981, p. 159). As a result, for the alethic pair formed by  $Np \rightarrow p$  and its weaker counterpart  $\sim N\sim t$ , he gets the deontic formula  $\sim O\sim t$ , which he generalizes to  $\sim O\sim p$ , but *not* the strongest formula  $Op \rightarrow p$  (von Wright, 1981, p. 160). Now, in my opinion, it is also hard to understand why one must say that contradictory states of affairs (*viz.*, the negation of tautologies) "ought not" to be the case. Passing from what *cannot be* the case (an ontic impossibility) to what *ought not to be* the case (a deontic prohibition) seems to mirror as if in negative the naturalistic fallacy of moving from "is" to "ought-to-be". Deontic predicates, like prohibitions, neither follow from nor apply to ontic impossibilities like contradictions. Contradictory states of affairs are not prohibited; they simply are impossible. Of course, what I say does not preclude the obvious principle that no norm shall oblige what is contradictory and, thus, impossible to fulfill. But the reverse is here the point: to overdetermine the realm of the ontically impossible with a deontic predicate as if they could overlap. They do not overlap. The *impossible* is wider than the non-obligatory

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15 Here is the passage: „Satz 20 spricht aus, dass alle unbedingt geforderten Sachverhalte forderungsmässig äquivalent sind. In diesem Satze kommt ein Begriff der Forderung zur Geltung, der keine Grade des Sollens kennt: alles was sein soll, soll gleichermassen sein, nämlich unter allen Umständen, unbedingt. Auch dieser Satz wird zu prüfen, nämlich einem zweifellos vorhandenen Sollensbegriff gegenüberzustellen sein, der die Unterscheidung stärkerer und schwächerer Forderungen zulässt“ (Mally, 1971, p. 256).

16 "Das bedeutet: Die Tatsachen und das unbedingt Geforderte sind forderungsmässig äquivalent; oder: Was tatsächlich ist und was sein soll, soll äquivalent sein. – Das liegt ja im Sinne des Forderns, dass, was ist, sich mit dem Geforderten decken soll" (Mally, 1971, p. 257, my emphases).

(for instance, that “ $2 + 2 = 5$ ”), and the non-obligatory does not coincide with the impossible (for instance, that “citizens are not obliged to leave their country” disoblige because not leaving the country is a positive constitutional right, not a contradiction). As a matter of fact, deontic prescriptions, obligations, as well as prohibitions are not framed in terms of tautological sentences. In addition, there is no existential generalization either: from the ontic impossibility of  $\sim t$  to be the case, one cannot get the deontic non-existence of  $\sim p$ , by means of the transitional formula  $\sim O\sim p$ . As neither obligations nor prohibitions parallel the ontic modal truths of the necessary and the impossible, both  $p$  and  $\sim p$  cannot be derived in the deontic realm.

Nonetheless, there is something subtle and worth noting in von Wright’s thesis. One could expect that if a modified existential generalization is not obtainable, at least  $Pp$  would be deducible from the weaker formula  $\sim O\sim p$ . Von Wright thinks not. As he writes, “Accepting the modified definitions of the notions of necessary and of sufficient condition, it is easily shown that ‘ $Pp \rightarrow \sim O\sim p$ ’ is a theorem. If something may be, then it is not the case that its contradictory ought to be. [...] ‘ $Op \rightarrow \sim O\sim p$ ’ is another theorem”, but “‘ $\sim O\sim p \rightarrow Pp$ ’ is not a theorem” (von Wright, 1981, p. 166). Though, letting aside strict logical derivability, this seems strange. Suppose I drive a car in a foreign country on what appears to be a highway, accompanied by a friend from that land. Suddenly I feel unwell and think about stopping. I elliptically ask my friend, ‘Is it obligatory not to stop?’ He replies, ‘No, it is not obligatory not to stop.’ What should I conclude? Von Wright would say that permission to stop does not follow. Strictly, it does not follow, indeed. However, according to the *meaning* of the answer, ‘it is not obligatory not to stop’, the natural conclusion would be that it is permitted to stop. Therefore, it would follow that, on the road, there is no prohibition to stop, but permission both to stop and not to stop. In fact, if it were prohibited to stop, it would be obligatory not to stop. Since it is not obligatory not to stop, the conclusion is that it is not prohibited to stop and is therefore permitted, on the road, either to stop or not to stop. Whatever is not prohibited is permitted; whatever is beyond the set of all obligations is also permitted. This insight puts permission as a wider basis on which the whole edifice of obligations and prohibitions is built. Though, no existential generalization seems to mirror here the strong modal alethic formula  $Np \rightarrow p$ . One only has  $Op \rightarrow Pp \rightarrow \sim O\sim p$ , as von Wright rightly stresses, or something like  $(\sim O\sim p \ \& \ P\sim p) \rightarrow (Pp \ \& \ P\sim p)$  – when freeing  $\sim O\sim p$  from  $Op$  and taking it by itself – because the formula  $((Op \rightarrow \sim O\sim p) \ \& \ (\sim O\sim p \ \& \ P\sim p)) \rightarrow (Pp \ \& \ P\sim p)$  would contain a contradiction in the antecedent – as a wide, non-formalizable, basic sense of permission the *natural meaning* of the expression suggests (I will return to this in a moment).

To get around this obstacle and regain something like an existential thesis in the framework of the possible world semantics, some deontic systems suppose an ethically perfect world in a vein that, as far as I know, also goes back to the Leibnizian *persona* of the *vir bonus*, who does and only does what he must do.<sup>17</sup> In what he names the D-system of deontic logic, Cocchiarella defines as follows such a world: “A possible world  $W$  is ethically ideal if, and only if, for all formulas  $\varphi$ ,  $(O\varphi \rightarrow \varphi)$  is true in  $W$ ; or in terms of actions, a world  $W$  is ideal iff every action that ought to be done in  $W$  is in fact done in  $W$ ” (Cocchiarella, 1969, p. 7). However, this move is hard to accept. Suddenly, one is talking about an ideal world that is not the world the logic of deontic sentences should account for, *pace* the Kripkean possible world

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17 For instance: “Virum bonum enim seu justum definitio qui amat omnes. [...] Hinc omnia juris et aequi theoremata deduco. Licitum enim sit, quod viro bono possibile est. Debitum sit, quod viro bono necessarium est” (Leibniz, 1875, p. 73). See also: “Justum vel Licitum, Illicitum, Debitum, Liberum, quod est viro bono et prudenti possibile, impossibile, necessarium, contingens” (Leibniz, 1999, 2778).

semantics for modal sentences. It is not even necessary to invoke the phenomenological requirement of a return to the things themselves. It is enough to set our eyes on this drift into an alternative, fictional world created *ad hoc* to the difficulties of the issue. What seems to me the most “disrespectful” to the “things themselves” is the fact that this world does not take into account what is perhaps the deepest underlying reason for the existence of normativity: freedom of agency. Indeed, the supposed “ethically perfect world” is the sunset of freedom of choice, of weighing motivations, of decision, and of voluntary will. Norms would be like instructions that determine a mechanical doing. In fact, a variable set of motivations, many of them contradictory, is present in every decision that determines a unified will. Norms are only one part of this set of motivational factors, and it is a “necessity of essence,” to put it phenomenologically, that there is no overlap between normative prescriptions and factual actions. It could be replied that an ethically perfect world is one in which this set of motivations is present but in which the agent, by ethical decision, always assigns a higher motivational force to what is established by normative codes. Though, this reply concedes what I want to claim. Indeed, in that case, there would always be weighing and deciding on a set of motivations and awareness of being able to act for motivations opposite to the norms. Thus, even in it, the agency would not be deleted, and, with the agency, the very ability to assess the “goodness” and “justice” of a normative code and, in the last resort, to decide against what it obliges or prohibits. On the contrary, a world in which the normatively established always occurs inevitably would be a world without decision, without freedom, and in which there would have been a positivist reduction of the just to the positivity of normative codes. In this case, there would be no need for a theory of moral evaluation, of the will, and practical reasoning.

Moreover, the way out suggested by Cocchiarella seems to me not to work either, when one remains faithful to the basic sense of permission. In fact, for Cocchiarella, the way-out proposed amounts to modifying the false assertion that, if it is obligatory that  $p$ , then  $p$  is the case, by the weaker thesis that, if it is obligatory that  $p$ , then it is permitted that  $p$ . However, as I mentioned earlier, the core sense of permission entails that, if something is permitted, the contrary is also permitted: If it is permitted to smoke, it is permitted not to smoke; if it is permitted to walk on the streets, it is also permitted to not walk on the streets, and so on, under the condition that there is no express prohibition of one of the pairs of the alternative (for instance, if it is permitted not to harm others, it is not permitted to harm others either, because this latter is expressly prohibited).

To see this clearly, suppose a world free from obligations and prohibitions. Now, insert in this world some *positive permission* to do  $p$ . From this newly inserted permission, it does not follow that all or some agents will do  $p$ . The only conclusion is that  $p$ , being now permitted, can be done or not done. One could retort that one permission without a background of prohibitions and obligations is redundant because what is neither prohibited nor obligatory is a matter of indifference and, thus, always optionally practicable. However, suppose that, in this world, a new institution is created, for instance, a state power. When the constitution establishes that citizens have permission to vote, this is a positive authorization to vote or not to vote, that is, to do or not do some action  $A$  to which there was no former background of obligations or prohibitions because there were no political institutions in which  $A$  could exist. With this permission to vote, something new enters the world that did not exist earlier. So, the permission is not redundant. By the same token, even when some permission is established against the backdrop of a general prohibition, this sense of optionality of positive permission comes to light. Modifying an example given by Brown, suppose that a mother prohibits her children from eating cookies and now voices one special permission to eat a cookie, that is, an exception that does not withdraw the previous prohibition. This new permission is neither

an obligation to eat a cookie nor the nonexistence of an obligation not to eat cookies or the nonexistence of a prohibition to eat cookies. On the contrary, it is permission given to the children to choose between eating or not eating a cookie now. In so being, once more comes to light the sense of positive permission, which Brown names “explicit permission” and that, as he stresses, “has been difficult for simple formal treatments of deontic logic to make room, [and remains, thus,] a traditionally difficult notion to incorporate into deontic logic” (Brown, 2000, p. 95).

Von Wright has long ago highlighted this sense of “strong” permission. It is worth quoting one of his accounts:

The dual of the formula ‘ $O(p \ \& \ q) \leftrightarrow Op \ \& \ Oq$ ,’ i.e., the distribution principle ‘ $P(p \vee q) \leftrightarrow Pp \vee Pq$ ,’ holds good of this notion of [weak] permittedness. This, however, does not correspond to the way in which permission is normally thought to be distributive over alternatives. If we are told that we may do this or that thing, we normally understand this to mean that we may do the one thing *but also* the other thing. The distribution principle, in other words, would seem to be ‘ $P(p \vee q) \leftrightarrow Pp \ \& \ Pq$ .’ But this principle goes with a different idea of permittedness from the one which obeys the interdefinition schema ‘ $P$ ’<sub>def</sub> ‘ $\sim O \sim$ .’ We can call it a notion of *strong* permission. It is related to possibility (freedom) of *choice* between alternatives. (von Wright, 1981, p. 160)

This sense of permission amounts, thus, to optionality, which would have to do not with the alethic modal operator of the possible but rather with the contingent. In fact, when permission is asserted in a free manner, neither governed by the operator of obligation nor limited by the operator of prohibition, it is trivial that,

4. If it is permitted that  $p$ , then it is also permitted that not- $p$ . (T)

However, this is false in alethic modal logic because of the contradiction one gets when permission is substituted by possibility. In fact, it gives rise to a blatant contradiction and is always false. Indeed, while one can state, assuming von Wright’s “contingency principle” (i.e., the exclusion of  $\sim P(A \ \& \ \sim A)$  as theorem), that

5.  $Pp \ \& \ P\sim p \rightarrow P(p \ \& \ \sim p)$  (T)

the correspondent assertion for the possible in alethic modal logic is contradictory and thus false, namely that

6.  $Mp \ \& \ M\sim p \rightarrow M(p \ \& \ \sim p)$  (F)

The second problem to which the treatment of deontic expressions as modal operators is exposed comes from another long-known lack of symmetry with alethic modal logic. As I will stress very rapidly, the way it is usually countered also reveals a loss of sight for the strong sense of positive permission I just mentioned. In fact, while it is a theorem of alethic modal logic that

7. If  $p$  is the case,  
then  $p$  is possible, (T)

the correspondent sentence in deontic logic is simply untrue. Suppose that  $p$  describes a

horrendous murder. One cannot simply state that,

8. If  $p$  is the case,  
 then  $p$  is permitted. (F)

Once more, the usual move, as Cocchiarella puts it, consists in “a revised counterpart” of 8., in which it is assumed that “in an ideal world it ought to be that what is the case ought to be permitted; [...] in other words [the relevant alternative to 8.] is  $O(\varphi \rightarrow OP\varphi)$ ” (Cocchiarella, 1969, p. 9). This revision mirrors Brower’s axiom for alethic modal logic according to which, if  $p$  is the case, then it is necessary that it is possible that  $p$  (the system B, precisely after him). It is a perfectly understandable axiom: If something is the case, then necessarily, it must also be possible. However, its counterpart in deontic logic (obligatorily, if something is the case, then it is obligatory that it is permitted) is only valid in the *asylum* of the “ethically ideal world.” In a nutshell, one is moving again to an “ideal world” without agency, where only what is obligatorily permitted is actually the case, where permission is governed by obligation, and where there is no place for the sense of positive permission, which is more than the nonexistence of a prohibition or an obligation to the contrary: it is the very *phenomenon of agency* caught in its most original form.

There is something intuitively strange, almost artificial, in the *de dicto* formulation of normative sentences. I contend that a phenomenological analysis of the sense-structure of the nomothetic noema will bring light to what sounds strange in the *de dicto* rendering. I also contend that it will provide an alternative and hopefully sounder formulation of the internal sense of norms.

To begin with, there is a whole set of normative sentences that are hardly expressible by deontic operators. I am referring to norms that use the  $is_n$  and the  $has_n$  or are reducible to them. Consider, for instance, the example given by Reinach: “The legal capacity of a human being begins with the completion of birth,” which was the first article of the German Civil Code. This can be reformulated with an  $is_n$ : “The completion of birth is the beginning of the legal capacity of a human being.” Consider, again, the so many direct cases of  $is_n$ , such as when the French Constitution stipulates that “The President of the Republic is elected for five years [...]” (Article 6). As it seems clear, one cannot put in it the deontic operators because the norm is neither an obligation nor a prohibition or permission. It rather *imposes a status*: President of the Republic, as well as other norms define what a citizen is, an ambassador, a husband, a person with legal capacity, and so on. It is in relation to these status-imposing norms, creating social *personae*, that deontic features are subsequently defined. Indeed, the subjects of deontic discourse are never plain individuals but social entities defined through these more basic imposition-status norms.

One could perhaps argue that such imposition norms are reducible to a set of deontic predicates, namely a set of permissions, obligations, and prohibitions,  $\Delta$ . Therefore, the term “President”, for instance, would be an abbreviation for the whole list of its deontic characteristics. In so being, “President” would be an umbrella name for a given set  $\Delta^p$  of deontic predicates, which a complex formula could expressly and exhaustively refer to by  $\Delta^p = (\delta p_1 \ \& \ \delta p_2 \ \& \ \delta p_3 \ \& \ \dots \ \& \ \dots \ \delta p_n)$ , where  $\delta$  stands for the several deontic modalities. Accordingly,  $is_n$   $has_n$  norms would be reducible to  $\delta$  norms. To talk about “The President of the Republic” would be, thus, a simple form of referring to the whole set of privileges, claim rights, powers, and immunities, to use here Hohfeld’s taxonomy, that defines what to be a president is. However, this seems hard to defend. Firstly, because for questions like “What is a President?” or “What is a husband?” one expects normative definitions such as “Is the supreme magistrate of the

## 5. The Structure of the Nomothetic Noema and De Re Modalities

state” or “It is someone who got married” and not a list of  $\delta$ -predicates. Secondly, because the introduction of new  $\delta$ -predicates can alter the former conjunction of predicates in  $\Delta$ , the suppression of revision of some of them, and nobody would say that the normative status-imposing *concept* of being a president or a husband had changed because of that.

Though, there is a deeper problem with the *de dicto* formulation of deontic sentences. In the *de dicto* rendering, one finds not the norm itself but instead a *nominalization* of the norm. This is a *second object*, which is phenomenologically accounted for as something constituted by an intentional loop that goes from the *objects directly intended* through a norm to *the norm itself* as a new object of noematic reflection. With his usual sagacity, Thomas Aquinas had already pointed out that *de dicto* sentences are nominalizations, or singular propositions, as he calls them, contrary to the *de re* counterparts, which are either universal or particular, and so on, i.e., which are sentences that affirm or deny something *about something* as their transcendent object. He writes:

Now it must be known that all modalities *de dicto* are singular, by the fact that the mode is predicated on this or on that as of some singular. Now the modality *de re* is to be judged as universal, particular, indefinite, or singular, according to the subject of what it is said, as in non-modal propositions [*de inesse*]; whence “for every man, it is possible to run” is universal, and so of the others.<sup>18</sup>

Returning now to what I said in the beginning about the status of the noema (see section 1, no. 2), it must be kept in mind that it is not *the object itself* to which one is intentionally turned but instead the *sense or meaning* through which some transcendent object is intended. In the intentional relationship, the sense remains unthematic in favor of the very object which is intended through it. In light of this intentional-transcendent feature of the noema, it is easy to see what an accurate description of the intentional structure of the nomothetic noemata would be: Some *object* is intended *as having this or that status* (citizen, husband, ambassador, etc.) and/or *as bounded by this or that deontic modality* so that the normative constraint is *contained in the very propositional content of the noema* instead of being a second-order predicate of it, which is only possible when the meaning is nominalized and taken as a new object of reflection. In so being, the formulae that respect this intentional directness to objects are, obviously, those that are articulated under the *de re* form. Further, the right move will consist in having in addition *normative copulas* incorporating in themselves the  $is_n$  or the  $has_n$ , as well as the deontic modalities *is-prohibited*, *is-obligatory*, *is-permitted*, etc. These latter operators can be altogether referred to by the general symbol  $is_\delta$  (where  $\delta$  stands for a deontic copula). This move not only respects the intentional structure of normative intentionality but also opens the space of a first-order deontic logic incorporating quantifiers, a clear syntactical distinction between *de dicto* and *de re* formulations, things that have already been done, and the side-by-side use of  $is_\delta$  and  $is_n$  or  $has_n$  copulas. Indeed, the intentional directness of norms to individuals or groups under this or that deontic status is easily accounted for by the construction “*For all citizens...*,” the deontic expression appearing now not as a modal operator but instead as a deontic normative copula: “*For all citizens, it is obligatory to abide by the state’s laws.*” Formalizing it, one gets not “ $O(\forall x)(Fx \supset Gx)$ ,” which is a *de dicto* formulation, but

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<sup>18</sup> “Sciendum est autem quod omnes modales de dicto sunt singulares, eo quod modus praedicatur de hoc vel de illo sicut de quodam singulari. Modalis autem de re diiudicatur: universalis, particularis, indefinita vel singularis secundum subiectum dicti, sicut de propositionibus de inesse; unde haec omnem hominem possibile est currere est universalis, et sic de aliis” (Thomas Aquinas, 1976, p. 421).

instead “ $(\forall_x) (F_x \supset OG_x)$ .” The quantifier determines the domain of the norm independently of the deontic predicate. This corresponds to an essential feature of normative intentionality, namely, the fact of being almost always definitely *person-directed*, to all or to some within a definite group, or even to a single person (in the latter case, one would have  $(\exists_x) (OP_x \& (x = a))$ : There is someone that shall serve a 6-year prison sentence and that someone is “a,” say, John). On the contrary, the *de dicto* formulation is not rigidly person-directed. Stating, for keeping the same example, that it is obligatory that if  $x$  is a citizen, then  $x$  must abide by the state’s laws,  $O(\forall_x) (F_x \supset G_x)$ , gives the flank to naïve but still natural reasoning that, if  $x$  does not abide by the laws, then  $x$  is not a citizen, and is, therefore, beyond the reach of the normative obligation of abiding by the laws. None of this happens with the *de re* and normative copulas formulation because the application domain is fixed independently of the deontic operator. *De dicto* normative sentences are suited to abstract, universal *principles*, such as *neminem laedere* or *suum cuique tribuere*, which, as principles, are not person-directed. In fact, the good deontic formulation would be something like “It is obligatory that everyone gives to each one his due.” However, to transform that universal principle into an obligatory norm for every single person, the transition must be made to a formulation *de re*: “For me, it is obligatory to give each one what is due to him.” The same passage is required in the cases Hilpinen and MacNamara consider when discussing the deontic counterpart of the Barcan formula (Hilpinen & MacNamara, 2013, p. 53). Taking one of their examples, in a lifeboat overload with too many survivors, it is known that it is obligatory that someone leaves the boat ( $O(\exists_x) (Px)$ ). However, this formulation does not work because it does not generate a specific obligation for anyone on the boat. It will only work when, let me suppose, the survivors find a selection criterion (say, those severely injured and with no hope of survival must leave the boat) so that the former *de dicto* sentence is transformed into a *de re* sentence: “Smith shall leave the boat” ( $(\exists_x) (OP_x \& x = a)$ ).

In accordance, one should write, for instance,

9. All citizens have<sub>n</sub> political rights and duties,
10. For every  $X$ ,  $X$  is<sub>δ</sub> to do  $Y$ .

Noematically seen, some transcendent object-about-which (*Gegenstand worüber*) is intended in some normative manner (*im Wie*), as obliged, prohibited, and so on, so that the propositional meaning (*Satz*) contains *in itself* the reference to some determined object and the way it is normatively intended. The bottom of the *Sinn* or noematic sense is not, thus, a non-modal proposition asserting some state of affairs, to which is applied a nominalizing transformation, and then some deontic predicate to the *dictum* as such, as Ockham put it. There is not an is-copula at the bottom of the normative *Sinn*. Therefore, one cannot construe the situation as if there were some state of affairs referred to by a proposition that, when nominalized, will receive a deontic predicate: For instance, *that driving on the left side of the road* is prohibited (in Italy) or obligatory (in England). On the contrary, at the very bottom of the core sense of a nomothetic noema, there is always a *normative sense* and not a supposedly more basic *descriptive sense*. This latter situation is certainly true for the relationship between non-modal and modal alethic logics, both in the *de dicto* and *de re* formulations of modalities. In fact, one can always suppress the modal predicate and obtain an assertoric sentence. I contend that, from the standpoint of phenomenological analysis, this does not hold for the intentionality proper to normative sentences, which have instead irreducible normative copulas (both *is<sub>n</sub>-has<sub>n</sub>* and *is<sub>□</sub>*) belonging to their *basic sense*.

If I am right, the two paradoxes plaguing deontic logic from the very beginning disappear. Indeed, existential generalization is no longer possible. Instead, one must simply state:



11. If all citizens are obliged to abide by the laws of the state,  
 Then, some citizens are obliged to abide by the laws of the state.

The same is the case with the passage from fact to permission because the normative copula does not derive from a more basic is-copula. In fact, from

12. A kills his fellowman B,

one gets absolutely nothing as a conclusion regarding the basic normative copulas *is-has<sub>n</sub>* or *is<sub>s</sub>*. Now, if one asks what is intended by means of the nomothetic noema, the answer that comes to mind will be that what is meant is a normative *state of affairs*. The answer mirrors the case of thetic noemata, where some ontic state of affairs is intended and possibly given. However, this obvious answer needs qualification. The “objects” of a nomothetic noema are not *facts*. For example, saying that it is a normative state of affairs that smoking in this room is prohibited is an elusive assertion. The authentic sentence would be that *people are prohibited from smoking while they stay* in this room. In short, the nomothetic noema does not have some *fact* as its “object,” qualifying it as obligatory, prohibited, and the like. Rather, it is a device for conditioning the *actual behavior of agents endowed with a power of choice*. Thus, instead of intending a *Sachverhalt*, a state of affairs, it is directed to a *Verhaltensentscheidung* or a *Verhaltensverlauf*, to a decision or course of behavior, if I am allowed to put it this way. Returning to our old Latin expressions, we should say that it is not a *factum*, but rather a *facturus* what the nomothetic noema intends, that is, not something that is already done, acted upon, but the *being about to do*, the *agency itself* in the very process of its accomplishment. Von Wright’s way of prefixing deontic operators to act-predicates and not propositional expressions is very near to this understanding.

At the bottom of the whole issue and from a phenomenological point of view, one would have to say that the basic phenomenon of free agency supports the normative domain. Deontic logic does not have to worry about this. However, the question is pressing and has to do with understanding the normative domain by means of a clarification of its original form. This is a phenomenological and genetic question. In my view, the normative phenomenon begins with the imposition of obligations and prohibitions, i.e., with something like an original act of institution imposing the fact that there are obligations, *!O*, and there are prohibitions, *!F*. However, obligations and prohibitions are only understandable if at their basis lies a freedom that is describable by the strong sense of permission: *!P*. Indeed, imposing obligations or prohibitions is only comprehensible under this background, and they are thus limitations on that basic freedom of choice. This is the reason why norms are directed to *actual* behavior and not to states of affairs. How do *!O* and *!F*, which open the normative domain, begin? The usual answer is that they come from some “normative authority.” This answer is short, however. The question returns: where does this authority come from, to impose directions for the basic freedom of agency, expressed in permission to do and not to do (optionality)? One would have to trace its institution back to several different processes genetically. Obligations and prohibitions, as well as rights and duties, can arise from mutual *agreements* (promises, contracts, etc.) or the *consent* given to some kind of authority (particularly political). However, they can also come from a “mute” *internalization* of a customary code that builds the cultural identity of individuals. There are multiple ways in which normative authority can be established. However, a normative authority of any kind would not exist if, at its base, did not lie the phenomenon of agency.

The validity of norms endures over time. But their effectiveness, what makes them effective norms in each case, is their capacity to be, as long as they are valid, conditioners of each

particular agent's *actual* behavior. Thus, by means of norms, one *knows behaviors* and knows them as *right* or *wrong* according to some particular normative code. Unlike the thetic noema, whose *Satz* proves wrong in case a transcendent state of affairs does not verify it, the validity of a norm is not affected by a divergent course of behavior. Rather, it is that behavior itself that is known as *wrongdoing* or *transgression* in light of the relevant norm so that the valid norm remains effective in a strong sense, as it continues to be the standard from which behavior is known and judged as regular or irregular, even for the one who does it. The efficacy of a norm is not only the fact that it generates a decision to behave in accordance, which may not happen. Above all, its efficacy lies in the circumstance that is a standard for *judging* behavior as conforming or deviant. The other way around, when a norm loses its effectiveness for *knowing* and *deciding* a course of behavior while staying formally valid (for instance, some positive state law that was not repealed), it is no longer a *true* norm to the extent that it has fallen into desuetude, as it is usually said. It no longer motivates or functions as a standard for knowing behavior. This happens very often with customary law, where validity and efficacy are joined together. In such a case, one could say that the norm has no longer *veritas de re*, as Amedeo Conte puts it when he remarks that there is a "[...] true '*de re*' to be predictable of norms of anapophantic semiotic entities, that is, of semiotic entities of which true *de dicto* is not predictable" (Conte, 2016, p. 26).

Let me briefly finish with the other elements of the noema that go beyond the sense core and its intentional X. I am referring to the nomothetic characters and modes of givenness.

Regarding the noematic characters, while in their propositional content, nomothetic noemata use deontic language and express obligations, prohibitions, and so on, their deontic force, or ductive force, as I call it, can be quite variegated. I am referring to how they impact the agent's freedom of choice. The important feature is that nomothetic noemata are *delimiters* of different *spaces of freedom* as they diminish or increase the scope of choice. Indeed, in a strong sense, nomothetic noemata are *configurative* of a realm of free agency, which they positively determine in various manners. A state law, which is enacted with a mandatory or peremptory force, is an extreme case. However, there are behavior injunctions, i.e., norms, that impact the agent's choice with a lesser ductive force, such as the cases of recommendations, warnings, conseils, or pieces of advice. They can be, and are very often, formulated with deontic strong language in their propositional content. Nevertheless, there is a huge difference between, for example, hard state law and the recommendations of the rules of etiquette, or between a recommendation passed by an authority, which must be considered and responded to, and a simple piece of advice given by a fellow man. One must not meld these two aspects. Regarding their propositional content, nomothetic noemata express obligations, permissions, and so on. However, regarding the constitution of a space of choice, the way they impact decision-making is quite differentiated and constitutive of diverse grades of freedom. This is an important point that is blurred in the *de dicto* formulation of deontic language because the position of the modal operator as a predicate of the *dictum* conveys the illusion that it is also expressing ductive force. However, the ductive force (as well as the objectifying quality of thetic acts) is normally not expressed in the sense content, except for circumlocutory constructions such as "It is my advice to you that...", "I strongly recommend that you...", "I order you to..." and so on. Normally, this is not the case, though, since the addressee knows what kind of ductive force the normative content implies. Consider a Turkish precept of etiquette: For a guest, it is mandatory to say "health to your hand" (*elinize sađlık*) to the person who prepared the meal. However, this propositional obligation is no more than a strong recommendation when ductive force is considered.

This last point brings me to the final issue I will refer to, namely, the manners of givenness. Of course, I am not referring to the differences, for a given object, among bodily presence, *Leibhaftigkeit*, the several varieties of indirect givenness, and deception, *Täuschung*, on the

other extreme, i.e., the non-coincidence between what is intended and what is intuitively given. These are manners of givenness that belong to the thetic noemata, where a transcendent thing or a state of affairs is intentionally meant. On the contrary, I am referring to the manner norms are recognized as genuinely binding, or not, for the subject who must act in accordance with them. In short, I am referring to the difference between *authenticity* and *unauthenticity* in the way norms are given to the subject to which they appear. Indeed, like Kelsen's *Grundnorm*, the normativity of norms must be presupposed, i.e., the commitment to abide by them *as positive* norms. Individuals recognize plenty of normative codes as internally binding: moral and religious codes, rules of social behavior, state laws, and so on. As Kelsen put it, and as I stressed before, this internal commitment to a set of diverse normative codes counts as the "moral ideology" of an individual. The other way around, when a given normative code appears as unauthentic, it is viewed as a device of coercive power that is perhaps still respected because of the fear of sanctions but not as a genuine, authentic set of normative rules to which one is committed to. They are true norms because they have validity and efficacy. However, despite their *veracitas in re*, they do not appear as authentic or genuine normative codes. Recalling Hart's famous account, it is the difference between *being obliged to* (by external power) and *feeling obliged to* do something (internal obligation), even when one does not. This is the basic difference in the mode of the givenness of norms. Some of them are accepted by an express commitment to abide by them; others, even in the cases where an individual must comply, appear to him as unauthentic, i.e., without the power of triggering an internal adherence. They are, on the contrary, felt as alien and strange. Once more, on the path opened by Conte, one could say that such norms appear as having no *authenticitas in re*.

Are there meta-normative and absolute standards for determining the authenticity and non-authenticity of positive norms, as if there was a *true* normativity (in Conte's sense of *de re*) as the correlate of *authentic* humanity? Or should we surrender instead to moral relativism and subjectivism?

This is a huge question to which I will answer with... silence.

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# THINGS WE MUST NEVER DO (IF ANY)

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## *abstract*

*Are there things that we must never do, no matter how untypical the circumstances and “unorthodox” our deontic ideas might be? In this essay I try to make evident that acts I call “pure sadist acts” satisfy this description. I discuss several examples of such acts and alert to their being not always easy to distinguish from certain others. Norms prohibiting such acts I call “true”, and I suggest that other, less suggestive, norms might also be (derivatively) true, if the pertinent acts stand in certain relations with the former ones. I incorporate some ideas from Hume, as well as from elementary model theory, to make mine clearer.*

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## *keywords*

*act, suffering, norm, wanton, deontics*

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Can *any* deontic norms be either true<sup>1</sup> or false or have any other truth value, should there be more than two? This is the “keynote” question of this paper.

I shall not raise the concomitant question of how the truth-value of any norm (with one exception) could be established (I am not sure if it always can, not even in principle – in this sense I am *not* a cognitivist), nor that of the relation between Is and Ought,<sup>2</sup> nor that of the Naturalist(ic) Fallacy (see Carcaterra, 1967), nor that of whether the deontic determinations<sup>3</sup> can be discovered by reason *alone* or *also* by moral sentiments. These are related to my “keynote” question, but different from it.

Non-professional (non-)philosophers sometimes ask questions like: “Is it true that you should/may/must/need not/must not/ought not x under circumstances z?”, e.g., “Is it true that as of last month, covid masks are no longer mandatory in New Zealand?” or “Is it true that you still ought to wear covid masks on public transportation means in Poland?”. Such questions make sense, and more often than not they admit of a sensible “yes” or “no” answer. Many philosophers would, perhaps, having given such an answer, comment on the question itself in a philosophical-superiority-tone of voice, saying something like “Uhm, what you actually mean is not whether it is true that you have to wear masks in Poland, because, my dear, that you have to, or need not, is a *norm*, this is what it is called, *en-oh-ar-em*, and there is general consent that norms cannot be true or false; what you meant was if that norm was currently *valid* in New Zealand or Poland”. But unless the asker is a lawyer, he is likely to ask back: “What exactly do you mean by ‘valid’? What sort of property is that?”

Short of referring him to Kelsen and/or Lotze (see, e.g., Maxsein, 1938), the philosopher may respond along these lines: “A norm is valid if it has been formulated, agreed upon and made known to everybody concerned by a group of people exclusively authorised to create

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1 I am working with the Augustinian, rather than Tarskian, theory of truth, so don’t expect such things as “satisfying formulae by assignments”, Kripke semantics and such-like here. Don’t fear any technicalities from St. Augustine, either. In the context of the logical value of norms I have been influenced by Anscombe’s concept of “practical truth” (Anscombe, 1999; Campbell, 2022) and Plato’s concept of the “correct” (ὁρθός), central in the *Laws* (cf., e.g., 626c, 639e).

2 But see Di Lucia & Fittipaldi, 2021.

3 Such as the morally or legally right and wrong with all the respective variations. The term – not necessarily all of its shades of meaning – is “borrowed” from Hume’s *Enquiry into the Principles of Morals* as is (*moral*) *sentiment*. For referring to a determination which has not been, or is considered as not having been, expressed in any norm, I shall be using somewhat clumsy expressions like “worth/deserving being prohibited/made mandatory” and such-like.

norms”. To which your “man in the street” could reply: “Very well then, I wonder if it is true that the norm about wearing masks in Poland or New Zealand has been created by the authorised people”. Here, the truth or otherwise of the norm gets pushed back one remove from the norm, for it is now the truth about the validity of the norm and not the truth about the obligatoriness of covid masks in Poland or New Zealand that is at issue. But given that the norm is valid (let’s suppose it is), one can say: “Covid masks are obligatory in Poland or New Zealand, and it is so”, meaning: it is so in the mode of being called *validity*.<sup>4</sup> There are many modes, this we know from Aristotle,<sup>5</sup> in which we say that something is something else, and there are modes more puzzling than validity: as Miss Anscombe notes (Anscombe & Geach, 1961, p. 23), if the bird dodo is extinct, this *is* so. A mode of being to be called *non-* or *no-longer-being*? Not necessarily so: Aristotle has called it the *mode of truth* (ὡς ἀληθείας).<sup>6</sup> Yet, to those who believe in Hume’s guillotine,<sup>7</sup> the idea of an *is* in the mode of validity, if this validity should be that of a deontic norm, may seem an absurdity even more patent than that of an *is* in the mode of non-being.

Now Hume famously claimed that however we analyse or “anatomize”<sup>8</sup> human acts and actions we never find moral qualities *in* them, as matters of fact or a system of relations between the actions, agents or their mental states<sup>9</sup>. But moral qualities are not nothing for Hume. On the contrary, at the beginning of his *Enquiry into the Principles of Morals* he writes that you must be a “disingenuous disputant”<sup>10</sup> (or an idiot) to deny the “reality of moral distinctions”. They are real, even if they cannot be found “inside” the acts. Their reality consists – Hume thinks – in commanding universal acclaim, admiration and other positive sentiments.<sup>11</sup> Following Hume, we can admit that just like the beauty of the circle is none of its (inherent) properties,<sup>12</sup> being obligatory or prohibited in Poland (or wherever) is not an *inherent* property of the norm but a complex property straddling several subjects and expressible thus:

1. the norm has a standard linguistic formulation in which there is a word signalling its

4 “By the word ‘validity’ we designate the specific existence of a norm” (Kelsen, 1967, p. 10).

5 “[Γ]ὸ δὲ λέγεται πολλαχῶς” (Aristotle, *Metaphysics*, book 4 (Gamma), section 2, 1004b5).

6 Aristotle, *Metaphysics*, book 6 (Eta), section 2, 1026b36, 1027b33. Not just “called”, also studied it in these, and other, parts of his *Metaphysics*.

7 D. Hume, *A Treatise of Human Nature*, book 3., part 1., section 1. (Hume, 1739-40/1978, SBN p. 469) (“SBN” references stand for the page number in the classical edition of Hume’s works by Lewis A. Selby-Bigge (1894) revised by Peter H. Nidditch (1974), see <https://www.humesociety.org/pdfs/Web-Guide-for-Second-Enquiry.pdf>). Cf. W. Żelaniec, 2021, pp. 55-87.

8 D. Hume, *An Enquiry into the Principles of Morals*, Appendix 1 (Hume, 1751/1975, SBN p. 287).

9 D. Hume, *An Enquiry into the Principles of Morals*, Appendix 1 (Hume, 1751/1975, SBN pp. 285-294).

10 D. Hume, *An Enquiry into the Principles of Morals*, section 1.2, (Hume, 1751/1975, SBN, pp. 69-70).

11 See, e.g., D. Hume, *An Enquiry into the Principles of Morals*, section 2, or Appendix 1 (Hume, 1751/1975, SBN pp. 176-182, or 285-294).

12 D. Hume, *An Enquiry into the Principles of Morals*, Appendix 1, section 14 (Hume, 1751/1975, SBN pp. 291-2): “Euclid has [...] not [...] said a word of its beauty. The reason is evident: The beauty is not a quality of the circle. It lies not in any part of the line, whose parts are equally distant from a common centre”, but maybe exactly this equidistance is what we perceive as beauty? We like (at the first stage of our aesthetic education), things equal, symmetrical, proportionate or the like. Beauty may well be “the effect, which that figure produces upon the mind, whose peculiar fabric of structure renders it susceptible of such sentiments” as finding the circle beautiful; but is not insisting on the distinction – between the properties of a pattern which, given the mind’s “peculiar fabric of structure”, render the pattern likely to produce a certain effect, and the effect itself – pedantic a bit? The Renaissance invention and further development of perspective (in painting) seem to suggest that treating the two members of this distinction jointly and in cooperation can be fairly fruitful. Hume was not sufficiently familiar with the notion of a property (beauty) “straddling” two subjects (the drawing pattern, the mind with its “fabric of structure”).



- obligatoriness, e.g., “ought to” or the like, and
2. it has been enacted, i.e., a body of human beings gathered at some designated place, studied that standard formulation of the to-be norm, voted on it and then told about it everybody else in PL or NZ, in a special form called the “promulgation”.

Once the norm has acquired this complex property (1. + 2.), it is *valid*, i.e., it is true that you must, e.g., wear masks on Polish public transportation means.

A philosopher will remark, perhaps, that property 2. is not, as may be suggested, a fact-like relational property of the norm consisting in its having been enacted, because there is still *validity* lurking in it, not reducible to a well-behaved empiricist matter-of-factly (mode of *being*: the person enacting a norm must have a *valid title* to do so; she must have been *validly* elected as a member of the *legislative* body, or *validly* anointed, or *validly* nominated, or the like. And the *validity* involved in each one of these requires a *valid*, “canonical”, definition, and so on. Ultimately, we shall arrive at the highest authority, with respect to which such questions as “Have you been validly elected a member of the legislative body” and so on cannot be sensibly asked because anything that comes from an authority like that – be it God, or the Kelsenian basic norm, or the *volonté générale* or what have you – is valid by definition.<sup>13</sup>

Yet our man in the street would not be interested in all that. He would, riding on a bus without a mask and hearing the driver saying to him in a stern tone of voice: “Sir, you must put on a mask immediately or get off the bus”, recognise him immediately as a person of authority (which authority? the *right, the relevant* authority) and he will not ask where this authority derives from. “So it’s true, you’ve got to do it in this darned country”, he would think, perhaps. But as proclaimed by this bus-driver, the norm is a distinctly *practical* truth,<sup>14</sup> not just a piece of matter-of-factly, sober information concerning the laws valid in Poland, but “also” (perhaps even chiefly) a command, i.e., the application of a general rule to this individual. This use of norms is often overlooked by some (most?) legal philosophers. For Kelsenians who attribute to their Master a clean distinction between *Rechtsnorm* and *Rechtsatz*, i.e. a statement *about* the former (the legal norm), a purely metalinguistic statement involving nothing normative within it except that a norm is its subject matter, with nothing in between, the Kelsenian “norms in the descriptive sense” (Hart, 1983, p. 287) are dismissed as a mistake. Hart has argued (Hart, 1983, pp. 287-295; pp. 328-330), however, that there *is* something in between, and my driver’s stern reminder about the masks to be worn on the bus would belong to this category (to which Hart did not give any name).

To sum up: positive, man-made norms, as soon as validly enacted, are true in the sense of making themselves true. “Wearing masks is obligatory” expresses a validly enacted norm and – wearing masks starts being obligatory. Obligatoriness accrues to wearing a mask in virtue of this enactment and no-one in their good senses expects to find it inside the mask or the wearer or both.

But, as we sadly know, the man-made normative order is easily disrupted. Resources become scarcer, needs – more urging, neighbouring communities – more eager to get a share in the greener and lusher grass on our side of the fence. It can happen, to say it with Hume, that

a society [...] fall[s] into such want of all common necessities, that the utmost frugality and industry cannot preserve the greater number from perishing, and the whole from extreme misery; it will readily, I believe, be admitted, that the strict laws of justice are

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<sup>13</sup> None of which is a good example of an empirical reality, nay, their very existence is highly disputable.

<sup>14</sup> In the sense of “pertaining to action”, not in the “thick” sense given this expression by Miss Anscombe.

suspended [...] and give place to the stronger motives of necessity and self-preservation [...] without regard to former limitations of property [...] where the society is ready to perish from extreme necessity, no greater evil can be dreaded from violence and injustice; and every man may now provide for himself by all the means [...].<sup>15</sup>

In other words, we go a-looting and do not care any more about our liabilities. Nor do we put much hope any more in our advantages, claims, entitlements. *Jeder ist sich selbst der Nächste*, as the German says: everyone is his own neighbour (in the Gospel sense of this word). Is that a state in which no norms are true, except in the very weak sense of having once been in vigour? Not necessarily. The passage from Hume, quoted above, goes on thus:

[...] every man may now provide for himself by all the means which prudence can dictate, or humanity permit.

So, there are still norms of prudence and of humanity that set (deontic) limits to human action. As distinct from those discarded ones – such as the obligation of wearing masks – they are no longer man-made (at least not in the same way as the former), but they are no less practical – in the sense that if one does not act in accordance with them, one is likely to get into trouble.

It is prudence that takes care of avoiding harm to your property or body, so let us put prudence aside and focus on humanity. The question is: are there (types of) acts which a human being *must never do*, no matter what the given circumstances are, or else she will destroy or seriously compromise her “humanity”, her being human? If there were such (types of) acts, we *could* say that the norm *you must not do this type of acts* is true in the sense that its non-observance is a sufficient condition of the destruction and obliteration (in the moral sense) of that *you* to which it is directed, just as the non-observance of the rule *you must absorb protein and water every 24 hours or so* is a sufficient condition of disappearing of that very same *you* – in the physical sense.

But what is it: to be human?

This is the hardest part, obviously. Philosophers since Confucius have striven to define “human nature” (性, *xìng* in Classical Chinese) and so did the great Hume, too, and they typically used their findings as a foundation for a variety of normative statements, such as Hume’s “reason is, and ought only to be the slave of the passions”,<sup>16</sup> or the beginning of the American Declaration of Independence: “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness”; is it really self-evidently true that all human beings have certain inalienable rights? I.e., is it true that I may this or that and cannot renounce on this *may* nor can anyone take it away from me? Or the Universal Declaration of Human Rights: All human beings “are endowed with reason and conscience and [for this reason?] should act towards one another in a spirit of brotherhood”. Should we really, or needn’t we? Is the pursuit of happiness really permitted (by whom?) and is it, perhaps, the case that we must never ever, and under no pretences, nor even for the very best reasons available, hinder anyone from pursuing his or her happiness; and... what is happiness, anyway?<sup>17</sup>

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15 D. Hume, *An Enquiry into the Principles of Morals*, section 3.8. (Hume, 1751/1975, SBN pp. 186f).

16 D. Hume, *A Treatise of Human Nature*, 2.3.3.5. (Hume, 1739-40/1978, SBN p. 415).

17 In any sense of this word, whether Founding Fathers’ or Aristotle’s (incessantly performing virtuous acts – *Nicomachean Ethics*, I, 7. – plus a modicum of wealth, general prosperity, pleasure, etc.) or Thomas Aquinas’ (unity with God – in knowing and loving him without impediments and restrictions; see *Summa Theologiae*, I-II, qq. 1-5;

However, the nature of my investigation commits me to starting not up high, amongst such high-flown ideals as Happiness or the Brotherhood of Man, because not achieving either, not even coming any close, does not (have to) destroy you as a human being – but quite low down. That is: Imagine that there are types of acts whose, as I said above, peculiar feature is that when you perform any such act, you sort of destroy yourself as a human being, become inhuman(e), in certain aspects only, to be sure (you do not necessarily transform yourself in a werewolf) and only – at the beginning – for a limited period of time, but... if you repeat your acts on a regular basis you will (*consuetudo est quasi altera natura*) earn yourself the name of a “beast”, an “*Unmensch*”, as the German says.<sup>18</sup>

I submit that such acts, if anything, are, or would be, if they existed, deserving to be unconditionally prohibited.

The idea that cruelty destroys the cruel person’s “soul [...] life [...] conscience” is to be found already in Augustine (see Baraz, 1998). One Kimberly A. Szacik BA in Psychology in Psychology [*sic*] answers, on *Quora*, the question “Why shouldn’t I shoplift?”<sup>19</sup> with the statement “You know what you are doing is wrong, it will eat away at your soul”. But perhaps, *pace* Szacik BA, shoplifting, though doubtlessly reprehensible, is not really outright psychophagic. So, let us consider any type of a truly heinous, hideous, terrifying act, e.g., anthropophagy; Ó Gráda illustrates the self-destructive, dehumanising character of anthropophagy with such quotations as “the act of cannibalism symbolizes how far human beings are willing to let themselves fall” or “there was also of course a great deal of psychic decomposition, even right down to some cases of cannibalism” (Ó Gráda, 2020, p. 11). The problem is that most heinous and hideous acts which humans can do to other humans may, under highly unusual circumstances, be pardonable and even commendable, or, at the very least, they may deserve clemency. In the famous case *R v Dudley and Stephens* (1884, see Hutchinson, 2010, pp. 13-40), in which the defendants, accused of cannibalism, were first sentenced to death, the judges arguing that in certain cases, to preserve one’s moral integrity (one’s being human in the moral sense) one must sacrifice one’s (biological) life for others,<sup>20</sup> but eventually served only six months in prison, due to the public consensus and Queen Victoria being in their favour. Torturing might seem to be another good candidate to the title of a type of act you must never do (see Association for the Prevention of Torture, 2007), but then there are the known “ticking bombs” arguments (see, e.g., Blattberg, 2018; Hill, 2007). Many arguments have been put forward to disarm the ticking-bomb arguments, for instance, that they may lead to justifying torturing babies in particularly extreme situations; I do not know if this is true and won’t go into it, but to *err on the safe side* I shall remain agnostic and *not* assume that torturing, not even of babies, is something you must never ever do. Instead, I shall propose the following “formula”:<sup>21</sup>

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*Super Sent.*, lib. 4 d. 49 q. 2; *Summa Contra Gentiles*, lib. 3 cap. 25-63). See also Tatarkiewicz, 1976.

18 As did, e.g., one Irma I. I. Grese (1923-1945), known as the Beautiful/Blonde Beast of Belsen, formerly the Hyena of Auschwitz. She was a member of SS Female Helpers and an overseer and then warden in the German concentration camps in Ravensbrück, Auschwitz-Birkenau and Bergen-Belsen.

19 See: <https://www.quora.com/Why-shouldnt-I-shoplift/answer/Kimberly-A-Szacik>. A perhaps more incisive example might be that of a Polish rescuer in the Russian-Ukrainian war (as of 6. February 2023 still ongoing) who has observed that while any war brings out the worst in any human being, the ongoing one has not yet killed off all humanity in him: he goes on rescuing wounded soldiers of *both* parties (Kozłowski, 2023).

20 Except that those others must not become the instigators and performers of their sacrifice; this the noble judges seem not to have noticed in their verdict; for details see the previous note.

21 Mock-quotes: the formulation is still tentative and provisional.

Intentionally making a sentient being suffer just for the suffering's sake *or/and* for deriving pleasure from it and for no other purpose – is something one must not do, never and under no circumstances; be they ever so untypical.

By “sentient beings” I mean all beings that can suffer, perceive pain, in any sense of this word. Here, there is a lacuna to be filled, for how many sorts of suffering and pain are there, within the categories of the physical and the mental, or whatever other categories of suffering there may be? Also, I take “sentient” to cover cases in which the being in question has lost temporarily or even permanently the ability to suffer in any widest sense of this word,<sup>22</sup> which it, however, originally possessed and which typical representatives of its species possess, too. Making someone suffer for the purpose of making someone suffer *and nothing else*: Is anything like that possible at all? Is it actually done? Is it thinkable? An act like that may well seem absurd because we tend to assume that every act is done *sub ratione boni*,<sup>23</sup> and suffering *per se* is, I assume, not *aliquid bonum* nor can it be conceptualised as anything good.<sup>24</sup> Unless, of course, there are further purposes in your inflicting suffering, for instance, taking revenge, punishing, training your victim to bear suffering and not break down, or the like. To block such possibilities, I have built into my “formula” the expression “...and for no other purpose”. So maybe the possibility of inflicting suffering for its own sake is not really a possibility and what remains is just “inflicting pain for the pleasure of it”. Again, to *err on the safe side*, I have built it into my “formula”.

Real-life examples are, naturally, rather drastic, which is why I shall not quote any.<sup>25</sup> Suffice it to say that in one case known to me the “vocal reactions”, to put it so, of the victim of the torture administered to her were tape-recorded by one of the tormentors and, confiscated afterwards by the police, classified (meaning: made not accessible to the public). However, FBI agents are made to listen to them during their training, the purpose being desensitising them to what they are likely to be exposed to while doing their duty. Acts of this sort I shall call (acts of) *pure sadism or sadist acts*. Finally, I have to explain that by *torture* above I meant not all acts of pure sadism but inflicting pain for the sake of extorting such information from the victim as he is unwilling to provide.

Other than being rather drastic, acts of the sort I mean here present yet another problem: many of them involve rape, usually committed for sexual pleasure and not for the pleasure of inflicting pain. As a result, a drastic example of the sort I mean here is not an act of pure sadism: it is done for the sake of still *something else*. Are they, then, acts of pure sadism? Despite the fact that the word “sadism”, is derived from the name of Marquis de Sade, who described cruelty perpetrated primarily for sexual pleasure, I would answer this question with a “no”. The reason is that *sexual* pleasure can be derived from an act of raping even if it is achieved without the specific pleasure of causing pain, i.e., when the rapist

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22 Covered are, therefore, beings which are currently non-sentient due to, e.g., I have the honour and pleasure to thank Ms. Alba Lojo from Universitat Pompeu Fabra (Catalonia, Spain) for drawing my attention to this aspect of the problem.

23 See, e.g., Thomas Aquinas, *Summa contra Gentiles*, lib. 3, cap. 3, n. 7 (<https://www.corpusthomicum.org/scg3001.html>).

24 Suffering can, of course, be something good *secundum quid*, e.g., suffering for a Good Cause or the like. It can happen that suffering inflicted by A to B is entirely pointless (except the concomitant pleasure, perhaps) from A's point of view but not pointless for B. My “formula” does not leave any place for this distinction. Perhaps it should, but there is no space nor time for taking it into consideration.

25 It would be disingenuous, however, to pretend I haven't heard of the Tortured Child from *The Brothers Karamazov* by Dostoevsky. Or *The Mysterious Stranger* by Mark Twain. The film “Funny Games” by Michael Haneke can be mentioned in this context, too. For real-life examples Goldhagen's *Hitler's Willing Executioners* may be a good source.

simply does not at all care if his victim feels one way or another; he is treating his victim purely instrumentally, which may be another face of pure evil, on a par with my “acts of pure sadism” and not reducible to it. Rapes where sexual satisfaction is, by contrast, an unintended side-effect and the rapist’s *only* objective is to cause his victim pain or other suffering *are* acts of pure sadism.

This does not mean, as I shall explain later, that such acts are allowed under some circumstances. I am not claiming that acts of pure sadism (in my sense) are the only class of acts that must unconditionally be prohibited; there are others, beyond the scope of this paper. However, there *are* examples of unspeakable cruelty done to sentient beings, even human beings with no sexual motivation, just for the pleasure expected by the tormentors from the tormenting *alone*. They *are* very drastic, so I won’t give you any hints as to how to find them. But there are less drastic ones, too. Ones that are done every day, most everywhere, ones that most of us do commit every now and again, often without taking notice.

Here is a passage from Joyce’s novel *Portrait of the Artist as a Young Man* (Joyce, 1916). “The young man”, then still a boy, Stephen Dedalus, is often “teased” by his fellow-pupils at an Irish boarding school. For example, another boy, called Wells, approached him once with a question:

– Tell us, Dedalus, do you kiss your mother before you go to bed?

Stephen answered:

– I do.

Wells turned to the other fellows and said:

– O, I say, here’s a fellow says he kisses his mother every night before he goes to bed.

The other fellows stopped their game and turned round, laughing. Stephen blushed under their eyes and said:

– I do not.

Wells said:

– O, I say, here’s a fellow says he doesn’t kiss his mother before he goes to bed. They all laughed again. Stephen [...] felt his whole body hot and confused in a moment.

Then he remembered a recent act of physical violence Wells had done on him. It was a “revenge”, of sorts, however, not wanton violence. But *this* act of psychological tormenting was wanton: I take it for granted that Wells’ behaviour was not inspired by any further purpose, such as punishing Dedalus for some nasty behaviour of his in the past or making him feel that he is not so clever as he thinks he is, or perhaps indulging in a kind of rough camaraderie. Or else, the boys might have been instructed by the authorities of the school to tease Dedalus every now and again, not just to torment him and enjoy it, but to make him more “humble”, “to put him in his place” (Lewis, 1955, p. 105), if the authorities considered him not humble enough and thought that in his very best interest he’d better be. In Elias Canetti’s autobiographical novel *Die gerettete Zunge* there is a somewhat similar episode.

Another example. An American anthropologist, Cora Du Bois, studied the people living on the Indonesian (Dutch East Indies by then) island Alor in 1935; the resulting book, *The People of Alor* (Du Bois, 1944), portrayed a micro-civilisation which seemed intentionally constructed so as to render its people most unhappy possible. Specifically, it is “a society where men are involved in a complicated financial system of exchanges [...] which has [...] little practical but enormous prestige implications. The actual providers are the women entirely absorbed in garden work, and entirely void of status. The disruptive forces of this system manifest themselves in a very high divorce rate and countless financial quarrels. A loveless childhood, a youth full of frustrations are the inescapable consequences of this system [...]. [I]llness often forces financiers into paying debts in order to placate supernaturals [...] ‘possessed’ (mentally

diseased, probably also delirious) people are killed or even buried alive because they are regarded as dead” (see Ackerknecht, 1944).

In addition to corporal punishment [administered by anyone, not just parents], teasing, ridicule, and deception are widely used, not only in disciplining children but also as favourite forms of amusement, especially among young men. I have seen youths in their late teens and early twenties send boys on fool’s errands and deceive them with false promises of rewards for services, and then guffaw with laughter when the crestfallen child returned. Fantan the Interpreter one day called to an eight-year-old girl whom we passed on the trail, saying he had just left some honey at her house and she had better hurry home for it. Actually, we had taken some ripe breadfruit to her house but it had been eaten up before we left. On another occasion, a man of about twenty-eight sent a twelve-year-old boy to fetch a bunch of bananas he said he had left at the foot of the village. In return he promised the boy six of them. The boy raced gleefully to the indicated spot but returned saying he had not found them. He was sent off again, and when he returned the second time he realized that he had been deceived. A group of six or seven grown men were sitting about watching the procedure and laughing heartily, to the boy’s evident shame and anger (Du Bois, 1944, p. 65).

Such things must not be done, full stop. It is immaterial whether they are or are not formal delicts of a criminal code (although, with growing moral awareness of the mankind they tend to enter criminal as well as civil codes under the heading of “hazing”, “bullying” or “harassment”, even if they are part of an apparently legitimate code of behaviour). I suppose the above could be brought in line with Miss Anscombe’s difficult – but still sparking large (four digit) literature and even YouTube films<sup>26</sup> – concept of *practical truth* (see Anscombe, 1999; Elliott, 2016; Campbell, 2022). Very roughly, practical truth in her sense is a truth about a rational agent’s action which the agent *brings about* not by making her judgment conform to a passive, contemplative, onlooker’s, description of what she (thinks she) is doing, but by acting in agreement with a scheme of action,<sup>27</sup> known, assented to, and *bona fide* (i.e., not as a pretext or excuse, still less a piece of self-deception or downright lie) made by the agent the main motive and efficient cause of the action. This alone means, in Anscombe’s concepts, that the agent is acting *intentionally*, whatever nonsense or maliciousness her intention might contain. To create practical truth, the agent must, in addition, believe that his action is “the thing to do” by the agent’s own principles,<sup>28</sup> something that goes into her conception of “doing well” (ἐπιπραξία<sup>29</sup>) by the agent’s own lights – and it indeed is a way of

<sup>26</sup> See, e.g., <https://www.youtube.com/watch?v=a3HbMAGcOvY>.

<sup>27</sup> Thinking certain thoughts, saying certain words, moving one’s body in a certain way. An action is not, however, just a set of such items. It has a unifying structure, mirrored in thought and speech of anyone who understands it as a “description”, e.g., “rescuing a drowning child” and “extending in time a child’s suffering” (if the child’s life is miserable). For a famous example see Anscombe’s *Intention* (1957), § 23.

<sup>28</sup> Anscombe insists that neither the idea of “the thing to do” nor that of “doing-well”, “living well” or the like need to reflect mature and sophisticated moral components. A licentious man whose licentiousness is not a matter of the weakness of his will may well think well, seducing one’s neighbours’ wives is, if I am to be, once in my lifetime, honest to myself, part of “my idea of good work (ἐπιπραξία [sic]) [...] the kind of life I want [...] and a fig for moral virtue [...]”. It is not that the licentious man thinks licentiousness is moral virtue [...] rather that this is a good way to carry on. “One should pursue the present pleasure”, δὲ τὸ παρόν ἦδον διώκειν, doesn’t mean it’s virtuous, or morally obligatory, to do that – but: that’s the thing to do!” (Anscombe, 2013, p. 148).

<sup>29</sup> Anscombe fathers her concept of practical truth on Aristotle, hence this Greek word: *Nicomachean Ethics*, 1039a; other expressions used by Anscombe’s commentators are, chiefly, ἐδράττειν, ἐδ ζῆν, ἐδδαμνεῖν, *Nicomachean Ethics*, 1095a. On possible distinctions between these concepts see Fröhlich, 2012.

“doing well”. E.g., someone who, seeing a drowning child, decides to save it and does her best to accomplish it, realises the practical truth of “NN has saved a child from drowning”, given that saving drowning children, should they be within one’s reach, is a way of “doing well”. I suggest, in the present context, that norms can be classified as true or false – in the “contemplative” sense – if, *inter alia*, they prescribe behaviour which results in creating practical truth in Anscombe’s sense. Such true norms say such things as “You must never make anyone suffer if your only motive is the thrill of watching how its suffering”, and since such behaviour in no way fits into a type of human development called “doing well” – whatever “doing well” could else be – conforming to a norm like that will keep you from “doing ill” and destroying piecewise your humanity.

This would be a rather unexpected kind of deducing Is from Ought.<sup>30</sup> The Ought is my “formula”, the Is – an action manifesting the practical truth of, e.g., not causing pain to a sentient being for no purpose except that it is fun, as part of “doing well” and the subsequent “doing-well” of the agent. Unfortunately, however, the practical transition from the Ought to that kind of Is needs a link, and this link is the decision (*προαίρεσις*), which the agent can well fail to take. If so, he typically won’t ruin his “doing-well” at once and forever and he won’t turn to an *Unmensch*. But... you know full well you are not supposed to pull off flies’ wings and legs or nail bats on the door of your barn just because it gives you kicks, yet, it heck *does* give you kicks, you give in to this temptation and forego the chance of enhancing your doing-well and ultimately your living-well by resisting a dehumanising – and a silly, at that<sup>31</sup> – temptation. This Is is not your growth, even if it is a “growth” by your own criteria, as long as they are well-pondered and have been conscientiously conformed to, but your piecemeal destruction as a human being, your transformation in an Irma Grese (s. footnote 18), a beast or a hyena, like her.<sup>32</sup>

However: how shall I argue for my “formula”? Shall I claim it is “intuitive”?

In Anglo-American philosophy it is often expected that all premises and conclusions of a piece of philosophical analysis should be “intuitive”, whatever that means (I am not sure I know what that means<sup>33</sup>). As regards my “formula”: *it is under no circumstances allowed to inflict*

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30 I am not very much of an erudite, but it seems to me that deriving Is from Ought has so far enjoyed far less interest of philosophers than that of Ought from Is. Why should it be so? Because it is philosophically trivial? If Jack Sprat ought to do something or other, then either he does not know that he ought to do that thing, or he does but does not care, or he cares, and then he either conforms or he defies, both being possible for a large class of reasons. See Conte, 2021; De Monticelli, 2021.

31 When I was five or six, my mother warned me, without a special occasion, not to pull off flies’ wings or legs. I was flummoxed: first, it was difficult, nearly impossible, to catch a fly alive, second (I wondered) what use could such an absurd and pointless occupation be. After a time, I actually caught a fly (she lazily walked around on the back of my hand) and, out of curiosity, pulled off her legs and wings. The idea that the insect was sensing excruciating pain was somewhere on the back of my mind, but it wasn’t very disturbing, as I found it scarcely believable (why?). I was interested, rather, in my own reaction to what I have been doing, and also in what the mutilated insect would behave like. Well, it didn’t shriek, moan or squeak, and in general it didn’t seem to have taken note of what had just happened, and it tried to walk as if it still had legs. As regards my reaction, I felt a certain unease (see the last-but-one sentence), and the foreseeable impression that doing this kind of thing was useless, pointless and stupid. No thrill or kicks. I killed off the fly and never repeated the experiment.

32 Ms. Grese was tried, sentenced to death for war-crimes, and executed by the British authorities in December 1945. Obviously, her idea of a “good life” was not well-pondered (it consisted chiefly in sadist acts in my sense and it cannot be denied that she pursued this idea of life very conscientiously). No less obviously, you cannot “carry on” with this idea of a good life for long.

33 ChatGPT (<https://chat.openai.com>) has suggested to me the following definition: “Based on concepts or ideas that are widely accepted or easily understood by ordinary language users”. This does not seem – or so I hope – to have much to do with intuitiveness in philosophy; “...although what exactly constitutes ‘intuitive’ can be a matter of debate”. It is obviously not quite intuitive what being intuitive really is.

suffering on sentient beings just for the sake of (drawing pleasure from) doing so, I must admit that I do not perceive it as particularly “intuitive”, i.e., in the sense of the word “intuitive” which I am evoking here, my “formula” does not present itself to me as an insight I reach upon turning it in over my mind for not too long a stretch of time<sup>34</sup> and which I finally find self-evident:

“Yes, this is so, now I see it clearly”. Intuitive in this sense are, e.g., the well-known theorem ascribed to Euclid to the effect that there is no largest prime number or the theorem that the sum of the three angles of a triangle is 180 degrees, or perhaps even the Pythagorean theorem. Intuitive insights can, however, be mistaken. It is intuitively true, e.g., that if a bat and a ball cost 1 euros and 10 cents and the bat costs one euro more than the ball, the latter costs 10 cents, is it not? No, it is not. Or, at least, it shouldn’t be.

But my “formula” is not like that at all. Assenting to it does not take turning it over in one’s mind. Rather, it forces oneself on one’s mind so irresistibly as to provoke the judgment that if the words “it is not allowed”, “it is prohibited”, or the like should be applicable to anything at all, they must be applicable, first and foremost, to inflicting wanton suffering for its own (pleasure’s) sake. In other words, if inflicting pointless suffering were not something that is *not* allowed, then we are hard put to imagine what else could. Certainly, one may decide not to attach any meaning (extension) to the deontic predicate “...it is not allowed”, or treat it as a purely emotive pseudo-predicate, without extension or just with the pseudo-extension of the set of things which at any given time in any given person provoke certain feelings expressible as “...it is not allowed”, “You must not...”, “...one can only condemn this” or the like. But if one insists that that predicate should or could have an extension, one feels that, *if anything*, my acts of pure sadism are an excellent candidate for what to start building this extension from<sup>35</sup>. Such acts are prohibited *if any acts are*. In this sense, the “formula” in question looks rather like a Kant-style “transcendental condition of possibility of any being prohibited”, as does the basic norm in Kelsen with respect to all kinds or (legal) validity<sup>36</sup>, or perhaps like *modus ponens*, which, if treated as a truth of logic among others, viz. as “(( $p \rightarrow q$ ) &  $p$ )  $\rightarrow$   $q$ ”, makes all reasoning impossible in that it starts an infinite regress wherever one attempts to apply it, and which has to be accepted as a rule of reasoning *before* any reasoning has been performed (see Carroll, 1995).

If anything, my “formula” can appear “over-intuitive”, like “ $1+1=2$ ”<sup>37</sup>, of ordinary Peano arithmetic. That  $1+1$  makes 2 is nothing to be found out after hard thinking and to be incorporated into our body of intuitive arithmetic truths. It is, rather, a very basic arithmetical truth which we must have already known in order to grasp the meaning of the symbols contained in its linguistic expression: “1”, “+”, “2”, and “=”.<sup>38</sup>

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34 Why “not too long a stretch of time”? For this author the equivalence of the axiom of choice and the Zermelo theorem, although he took great care in studying its proof and (thinks he) has understood and accepted every single step thereof, has not (yet?) become “obviously” true and graspable by his mind “in one go” the way the non-existence of the greatest prime number is. The axiom of choice *is*, to this writer, obviously true, but the Zermelo theorem is not, and still less is the equivalence of these two. Perhaps after another ten or so years of hard work it will become so to this author, but claiming *then* that he finds the equivalence intuitive would be, intuitively, a case of ridiculously, if not grotesquely overdone *sprezzatura*.

35 In philosophy, this *if anything is* [something or other] as an ultimate argument is sometimes employed, if not frequently. E.g., Cassam in *Williamson on Knowledge*, remarks somewhat exasperatedly: “*bachelor* and *unmarried man* are identical [concepts] *if any concepts are*” (2009, p. 15).

36 “Insofar as only the presupposition of the basic norm makes it possible to interpret the [...] constitution-creating act (and of the acts established according to the constitution) as [the enacting of] objectively valid legal norms, the basic norm as represented by the science of law may be characterized as the transcendental-logical condition of this interpretation, if it is permissible to use by analogy a concept of Kant’s epistemology” (Kelsen, 1967, p. 202).

37 As Pascal puts it: “[T]rop de vérité nous étonne [...]. Les premiers principes ont trop d’évidence pour nous” (B. Pascal, *Pensées et opuscules*, 1909, section 84, p. 353).

38 In Peano (1889, p. 2), it is a definition of “2”. See Russell, 1919, p. 5.



In fact, this arithmetical comparison is a suggestion offered by Hume himself. He sometimes compares mathematical reasoning with moral “deliberation”, and he finds an interesting contrast between the two:

The former is sufficient (if correct) for establishing a mathematical truth, while the latter is at best a necessary condition of establishing a moral truth (if there is any such, that is). Is it, e.g., true that  $2+3=10/2$ ? The mathematician – Hume thinks – reasons thus: “if ten be divided into two parts, of which one has as many units as the other; and if any of these parts be compared to two added to three, it will contain as many units as that”. The mathematician does not need to know *everything* about natural numbers, their addition, division and whatnot, it is enough that he should know the *relevant* ones. “Thence [a mathematician] infers some unknown relation, which is dependent on the former”.<sup>39</sup> By contrast, someone interested in a question pertaining to the moral aspect of things, e.g., the question if he should assist his brother, or, rather, his benefactor, or if a certain killing was or was not an act of self-defence, would have to know *all* the facts and relations between the acts he is “deliberating” about. But “after every circumstance, every relation is known, the understanding has no farther room to operate, nor any object on which it could employ itself. The approbation or blame, which then ensues, [is] [the] work [...] of the heart; and is not a speculative proposition [...] but a [...] sentiment. In [arithmetic, e.g.] from known circumstances and relations, we infer some new and unknown. In moral decisions, all the circumstances and relations must be previously known; and the mind, from the contemplation of the whole, feels some new impression of affection or disgust, esteem or contempt, approbation or blame”.<sup>40</sup>

However, the proposition “ $2+3=10/2$ ” is a poor example, I think, for any numerate person would immediately “see” (have an intuition of) its truth.<sup>41</sup> But it can be rigorously deductively inferred, or “proved” in the mathematician’s sense of this word, and the proof would have to start from certain basic premises, called “axioms”, e.g., the Peano axioms of arithmetic. Mathematics being a purely extensional science, it matters little *which* particular set of propositions would be taken as that of axioms as long as it is equivalent with any other, i.e., as long as the same propositions can be inferred from each of them; however, for those branches of mathematics which have a certain standard, default, “natural model”,<sup>42</sup> such as arithmetic as we learn it in elementary school, and use for everyday dealings, mathematicians usually try to find, and establish as axioms, such propositions which express certain obvious, “over-intuitive”, constitutive and essential properties of the objects populating that standard model – in the case of arithmetic, the natural numbers as “standardly”, i.e., naïvely, conceived. Now, a striking property of the natural numbers as all of us know them, is that they are positioned one after the other, in an “Indian file” *and* there is one and only one natural number that is not followed by any other. This is coded in Peano arithmetic as axiom 8. and axiom 9. (Peano, 1889, p. 2). The axioms describe – not accidentally, but by their very “gist” – to the best of our knowledge, the natural numbers as we know them,<sup>43</sup> and at the same

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39 D. Hume, *An Enquiry into the Principles of Morals*, Appendix 1 (Hume, 1751/1975, SBN pp. 289-290).

40 D. Hume, *An Enquiry into the Principles of Morals*, Appendix 1 (Hume, 1751/1975, SBN p. 290).

41 This creates the impression, somewhat unfairly supporting Hume’s point, that problems of mathematics are *easier* than those in morals, so that a mathematician will not have the temptation of stopping his reasonings and resign himself to *sui generis* feelings. Think of Fermat’s last theorem, or Goldbach’s conjecture instead.

42 A *model* of a mathematical theory is a set of mathematical entities and relations between them the theory can be taken to be talking about and be true of. See, e.g., Hodges, 2022.

43 Russell and many others held, in fact, that the Peano axioms capture the intuitive concept of a natural number quite well; see: [https://en.wikipedia.org/wiki/Peano\\_axioms](https://en.wikipedia.org/wiki/Peano_axioms) for references. This doesn’t mean that they don’t describe anything else just as well; there are so called non-standard models of arithmetic, fairly non-intuitive; see [https://en.wikipedia.org/wiki/Non-standard\\_model\\_of\\_arithmetic](https://en.wikipedia.org/wiki/Non-standard_model_of_arithmetic).

time they define them in the sense of the Carnapian “explication” (Carnap, 2008, p. 7.), i.e., they make our intuitions clearer and more precise, apt to function as premises in rigorous deductive derivations. It would be rather pursuing a will-o’-the-wisp to look for something else that does that job “in” or “around” or “about” the things that the axioms describe. It would be, too, rather like asking “Which inherent properties, relations or states of affairs make the set of all points equidistant from a given point – a circle?” None – nothing *makes* these points a circle, and there is no place or need for any *making*, either, because being the set of all points equidistant from a given point is what we agreed a circle *to be*, in the precise language of Cartesian geometry, not arbitrarily, however, but taking our deepest and firmest “over-intuitions” about the circle as a guide. Similarly, for the number 1’s being the successor of no natural number (the only difference being that it takes, in Peano’s arithmetic, another two axioms to explain the notion of a successor).

The truth of “ $2+3=10/2$ ” doesn’t reside in any inherent property, or any components thereof, nor in any fact other than itself, for it is a (mathematical) fact that  $2+3=10/2$ . As for relations “[w]hence [a mathematician] infers some unknown relation”,<sup>44</sup> viz.,  $2+3=10/2$ , they are those which are sufficient for deriving (the truth of) this proposition from (the truth of) the axioms.<sup>45</sup> After the mathematician has derived (inferred, proved) from (some selection of) the axioms, and going through whatever intermediary stages might be necessary, the proposition in question, his mind, like the mind of a moral deliberator, will find “No farther room to operate, nor any object on which it could employ itself” and the mathematician will typically be overwhelmed by a mixture of pleasant sentiments, such as the sentiment of victory over the challenge of establishing whether  $2+3=10/2$ , the sentiment of happiness over finding another truth and the like. Unless an anankastic neurotic, the mathematician won’t go on asking “Well, I *have*, indeed, proved that  $2+3=10/2$  in Peano arithmetic and with its methods exclusively, and my proof doesn’t appear flawed, but does it *really* mean that  $2+3=10/2$  is true, I mean, true in any model of and preferably the standard model of PA? Shouldn’t I be rather looking, in  $2+3$ , for an inherent property that makes it equal  $10/2$ , or perhaps the other way around? But however I anatomize both  $2+3$  and  $10/2$  I can’t find any such property...” Still less will the mathematician raise questions like “OK, the deduction was all right but are the things that the axioms describe *really* the natural numbers? Each of these thingumajigs has a direct successor, that one that stands directly after it and the one called ‘1’ is no successor and no two different of them have the same successor, this looks very much in common with the natural numbers as we have known them from times immemorial, but... shouldn’t I rather be looking for a more direct witness, an inherent property of what those axioms talk about, a natural-numberhood purely and simply?”

Such scruples would be like those about the circle: “Is it really true that the set of all points equidistant from a given point is a circle, given that no mention is made of an inherent circlehood of that set?” – and equally silly (or neurotic).

Similarly, I would like to submit, my “formula” is a deontic axiom, describing and defining the very essence of what it is to deserve unconditional prohibition. Hume is possibly right in claiming that however you “anatomize” ingratitude, you won’t find an inherent property of being a “crime” in it. However, the very word “ingratitude” has rather strong deontic and evaluative connotations: it would sound weird to say “He’s 1.8 meters tall, knows

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44 D. Hume, *An Enquiry into the Principles of Morals*, Appendix 1 (Hume, 1751/1975, SBN pp. 289-290).

45 Actually, this is not true: Gödel’s first incompleteness theorem implies, *inter alia*, that Peano arithmetic, if consistent (which it has so far seemed to be), allows to formulate propositions which, although provably true, in the standard model, i.e., the good ole’ natural numbers as we know and love them, are *not* provably true (or false) *within* it and by its means alone. However, propositions like “ $2+3=10/2$ ” are not among them.

French, is rather ungrateful and a bit swarthy”. Hume might have been wrong in looking for “crimehood” inside of ingratitude, while it is the latter that is “inside” the former, as one of its variants.

Truth in arithmetic can be established by means of logical deduction from the axioms.<sup>46</sup> From the deontic axioms, such as my “formula” – and there would be much more of them than there are mathematical axioms in any branch of mathematics – various propositions will be derivable logically. However, more importantly, given that deontics, unlike mathematics, is an empirical branch of study, it is to be wished (and I hope, rather to be expected) that it should be possible to establish the truth or falsity of certain norms appealing to the fact that they are related to my acts of pure sadism causally, motivationally or in another empirical fashion, not (just) logically. More simply: It is in relation to – among other things – their empirical: causal, motivational or what have you connections to acts of pure sadism that certain (types of) acts can, or perhaps should, be considered rightly prohibited, or deserving being prohibited – although not always, and probably not even most of the time, i.e., unconditionally. Acts of pure sadism in my sense seldom give rise to other acts deserving being forbidden independently of *any* circumstances, and a pure sadist may become an inexorably effective, ruthless, no-quarter soldier or mercenary, but under the circumstances of war, being so will be anything but undesirable and forbidden – quite to the contrary!

Other examples may be: Doing one’s duty as an executioner or a prison guard or a policeman with a certain “zeal” similar to that which a good pianist, say, displays while performing? Vandalism (this author’s favourite)? Watching/making/distributing certain kinds of films, such as (violent) pornography,<sup>47</sup> horror, “snuff” or “crush”? Engaging in kinds of competition which produce, perhaps solely as a side-effect, a desire to triumph over the outcompeted for the only (and wanton) purpose of enjoying the triumph? Or simple indifference to evil acts: “These girls are setting a hedgehog ablaze? Let’em, why should I care, me of all people? Besides, it’s better they take out their frustration on animals than on humans, innit?”

To close with an (intuitive, as I hope) example: as Heine put it, those who burn books will end up burning people.<sup>48</sup> Now, burning people may not be pure sadism in my sense, because some (top-rank) burners may sincerely (though for wrong reasons) believe their activity beneficial to the humankind or a part of it, as doubtlessly did the legendary elderly lady who, reportedly, contributed a faggot to the stake on which John Hus was about to be burnt, and earned, not Hus’ curse, but his compliment (sort of): “Oh, holy ingenuousness!” (*sancta simplicitas!*). But for most onlookers – if the execution takes place in public, e.g., in Smithfield, Place de Grève or the meadow Brühl *extra muros* of Constance<sup>49</sup> – it is just great fun to watch someone die this horrible death, especially if they had been told by the “relevant authority” that the person was a “heretic”, the details of which they neither know nor are interested in. I suppose this kind of entertainment can, in some individuals (probably not very few, though this would have to be borne out by relevant empirical research) generate a gusto for watching such grisly spectacles and even for staging them themselves – first on books, then on animals, still just for fun<sup>50</sup> and,

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46 This is not exact, see the previous footnote, but the nature of the present paper does not admit of more precision.

47 If it is not true (as I suspect it is) that *all* pornography is violent by definition.

48 “*Dort wo man Bücher verbrennt, verbrennt man auch am Ende Menschen*” (Heine, 1823, p. 148). The not-too-literal translation above is widely spread in the anglophone literature.

49 Today: Alten Graben 5, 78462 Constance, Germany.

50 See: *Cat burning* (n.d.). These orgies of antifeline cruelty are usually believed to have taken place “during the Middle Ages [and] prior to the 1800s.”. However, at least for the Middle Ages “prior to the 1800, they might be something of an “urban legend”, cf. *List of common misconceptions about the Middle Ages* (n.d.); Hengerer, 2011.

for even more fun – no weird pretexts such as Wycliffe & realism vs. Gerson & nominalism required – finally on human beings.

The practical conclusion to be drawn appears to be, at first, to declare burning books as such, no matter what their contents may be, in all kinds of ways reprehensible, good candidate for the title of crime and/or to require from any would-be organisers of a book-burning event official permission from the relevant authority. However, it is rather difficult to imagine David Hume as one of those sinister individuals who start by burning books and end up burning human beings; and yet, he did explicitly encourage burning books,<sup>51</sup> not all of them, to be sure. No doubt, there are books which – from the universalist-humanist point of view – deserve being “consigned to the flames”, or at least being made inaccessible to general public, no less, if not more, than those which Hume detested: *Malleus Maleficarum*, *Mein Kampf*, *Dialectical and Historical Materialism* and, perhaps, most novels from the literary school known as *nouveau roman français*. So, even if Heine is right and burning books can “lead to”<sup>52</sup> burning people, prohibiting the former does not need to be unconditional.

In arithmetic, and in every branch of mathematics based on an axiomatic system, some truths (typically, a majority) are also conditional, in the sense that they hold under certain conditions (e.g., if  $a$  and  $b$  are both odd,  $a+b$  is even) and ultimately under the conditions articulated in the axioms (postulates), these being assumed true, either because they jointly express the “essence” of what we (think we) know about the corresponding mathematical beings, e.g., our good ole’ friends natural numbers or because they are (seem to be) consistent. In the latter case, mathematicians can, if the axioms do not seem to express the essence of anything known and familiar since times immemorial, themselves construct something whose essence the axioms can be taken to capture, and that from the constants of the theory itself! We philosophers do not have such freedom; acts and omissions to be praised, condemned or neutral are there for us to face and evaluate correctly. Mathematicians have the privilege of being allowed also to ask what happens if an axiom is left out from a theory.<sup>53</sup> In deontics, this may have a heuristic sense at best.

In deontics, a more important question would pertain to what has to be *added* to the sorts of acts covered by my “formula” so as to obtain an as-exhaustive-as-can-be axiomatics of “things we must never do”. The answer to this question will depend not on logic alone, but on many empirical, probabilistic and stochastic considerations<sup>54</sup> – which is why it is so difficult to be a deontic cognitivist. Does watching public executions always awake a bloodthirsty beast within (some of) us? After all, they public executions were introduced not as a type of pastime (unlike the Roman *ludi circenses*) but as a means of, among other things, discouraging acts like those considered done by the poor sucker who’s got to ascend the scaffold or the validity of law in the mind of the watchers, the “*positive Generalprävention*” of the Germans, and how shall we legislate if the former effect (entertaining) turns out to have more weight and to be richer in consequences than the latter two? Should we ban them regardless, just because in some tender souls, no matter how few, they might generate or reinforce the inclination to acts of pure sadism? If we should, maybe we should abolish death penalty in general, or indeed

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51 D. Hume, *Enquiry Concerning Human Understanding*, part III, section 12.34 (Hume, 1748/1975, SBN p. 165).

52 For a conspicuous example of empirical considerations to the effect that something *should* be penalised on the grounds that even if the activity in question (“grooming”) seems to be in itself harmless, it may “lead to” minor sexual abuse, see Sorell, 2017.

53 Famous examples: the fifth axiom of Euclid and the two non-Euclidean geometries resulting, Bolyai-Lobachevsky and Riemann; the induction axiom in arithmetic and the resulting Q arithmetic by Raphael M. Robinson.

54 Purely philosophical ones obviously too, e.g., if this or that system of metaethics should be adopted, e.g., a utilitarianism, a normativism, a personalism etc.

any punishment whatsoever, because individuals administering punishment may develop a tendency to draw satisfaction from whatever suffering they may be asked to visit on their “customers”, no matter if these have been convincingly proven deserving the punishment. Other professions may not be safe, either: the cremation of human remains doesn’t need, and presumably seldom does, to correspond to, or breed, any sadist inclinations in those who do the job; but see the famous novel *Spalovač mrtvol* by Ladislav Fuks and the corresponding film by Juraj Herz, *The Cremator*. In the Roman Catholic Church incineration is even the preferred disposal method of liturgical objects no longer usable. Here again, we should be suspicious of individuals who seem to fill the function with a certain overzealous meticulousness.<sup>55</sup> Maybe there should, or maybe there even are, in some countries, laws against employing certain individuals for such functions.

Moreover, the sorts of acts falling under my “formula” almost certainly are not the only kind of acts which make people *ἀδικοὶ καὶ ὄλως κακοὶ*, unjust and generally vicious. But what are the others? Perhaps: manipulative approach to human beings? Instrumentalising them? Intentional non-recognition of their dignity as subjects or persons? Refusing to help them when help is indispensable? Indifference to, or even contempt for, the suffering, the unfortunate, the weak? At the very least, good ole’ plain egoism, i.e., not giving a d\*m if someone has not received their fair share of some scarce good, as long as “I” have? There are so many ways of becoming and being *ὄλως κακός*, generally vicious; the question arises, which of them are reducible to which, a question analogous to that which pertains to the axioms of any system of mathematics. In this paper, I have been busying myself with just one of these ways, conceivably the most conspicuous one. And perhaps, too, the most mysterious<sup>56</sup> – the mystery here being that of evil.

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<sup>55</sup> In Ivo Andrić’s novel *The Bridge on The Drina* there is a very plastic episode illustrating this.

<sup>56</sup> We still don’t know what exactly makes for suffering done to others for no reason so pleasant (sometimes and to some). However, a Benedictine, Dom Jean François, in his dissertation on “l’ancien usage des feux de la Saint-Jean, et d’y brûler les chats à Metz” (1758) arrived, after a lengthy discussion of several sophisticated and learned theories of the origin of that *ancient usage*: “le plaisir, ridicule à la vérité, mais pourtant réel, que prend le peuple aux miaulements, aux sauts et diverses agitations que ces pauvres bêtes font pour s’échapper. L’on en rit: voilà un motif suffisant pour le faire.” It is fun because it is a lot of laughs, and it is a lot of laughs because it is fun. Quoted after: Hengerer, 2011, p. 137.

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# CAN LINGUISTIC CORRECTNESS PROVIDE US WITH CATEGORICAL SEMANTIC NORMS?<sup>1</sup>

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## *abstract*

*Saul Kripke's paradoxical argument in Wittgenstein on Rules and Private Language (1982) has generated an extravagant number of responses. A major debate prompted by this book has focused on the plausibility and role of the supposed normative character of meaning; the argument itself is often taken to rely on the assumption that meaning is irreducibly normative. Following Boghossian (1989), the normativity of meaning has been understood as closely tied to the existence of semantic correctness conditions.*

*After a brief introduction to the background of the debate, this work will focus on whether the normativity of meaning may be better understood as stemming from a different type of correctness, namely linguistic correctness. Linguistic correctness differs from semantic correctness insofar as it is related to conventional, and not truth-functional, meaning.*

*I will begin by clarifying some of the features of linguistic correctness. First, I will outline some reasons why the distinction between linguistic and semantic correctness should be maintained. Then, I will anticipate a possible criticism and argue that linguistic correctness does not belong to the domain of pragmatics, as it is relevant to our understanding of conventional meaning. Finally, I will try to show that linguistic "oughts" are constitutive of meaning.*

*Having established these basic features of linguistic correctness, I will investigate whether the fact that it is constitutive of meaning can vindicate the idea that meaning is robustly, irreducibly normative. By applying arguments from the realm of moral philosophy – within which, too, there have been attempts to show that constitutive facts can give rise to categorical moral norms – I will argue that linguistic correctness cannot give rise to categorical semantic norms. Linguistic correctness may be, nevertheless, a useful tool for explaining some of our intuitions about meaning.*

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## *keywords*

*rule-following paradox, meaning normativity, semantic correctness, linguistic correctness*

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**1. The Background of the Debate: Kripke, the Normativity of Meaning, and Categorical Norms**

The argument put forward by Kripke in his 1982 book *Wittgenstein on Rules and Private Language* has been interpreted in many different ways since its publication. In some ways, Kripke's Argument (KA) has proved to be nearly as cryptic as the material he drew inspiration from, namely Wittgenstein's *Philosophical Investigations*. However, a tentative consensus regarding the main driving forces behind the argument has crystallized, mainly through the overlap that can be found in analyses given by different authors. It is nearly unanimously recognized that KA is an argument against the existence of meaning-determining facts; however, it is less clear *how* Kripke aims to demonstrate this claim. It can be safely said that Kripke highlights two separate issues: the difficulty that extant theories have in specifying, without falling into vicious circularity, which facts determine the extension of terms; and the difficulty of extant theories in non-mysteriously explaining the normative (or guiding) force of meaning. The latter difficulty has been referred to as "the normativity constraint" (Wright, 1989; Glüer & Wikforss, 2009), "the normativity argument" (Zalabardo, 1997), and "the argument from normativity" (Guardo, 2009). The extensional and the normative sections of KA intersect and complement each other in interesting ways, but their relationship will not be the focus of this paper.

Kripke puts forward the normativity argument by highlighting how existent theories of meaning struggle to account for the supposed "guiding" force of meaning, or the way we feel as if we "should" use words in a certain way. The clearest illustration of his strategy is the way in which he criticizes dispositionalism: he says that regardless of whether facts about speakers' dispositions can help us fix the extensions of terms, they are nevertheless the wrong kinds of facts because they are *descriptive* and not *normative* (1982, p. 37). Facts about dispositions can tell us how speakers will or do behave, but not how they *should* behave; because of this, they cannot be an adequate determiner of meaning. This is taken to be a crucial aspect of Kripke's argument and has been discussed at length by Paul Boghossian (1989), Allan Gibbard (2012), Hannah Ginsborg (2011), Anandi Hattiangadi (2007), and many others.

As a response to KA, some philosophers have given an interpretation of the normativity requirement now commonly known as "the simple argument" (Boghossian, 1989; Blackburn, 1984; Whiting, 2016). Proponents of the simple argument argue that the normativity requirement, or the assumption that meaning is normative within KA, should be understood as the recognition that correctness conditions exist and have to be accounted for in a theory of meaning; we *ought* to speak in a certain way because the expressions we use have correctness conditions. In other words, I *should* say that 5+7 equals 12 because it is correct to do so, in

the sense that it is true that  $5+7$  equals 12. Meaning is normative precisely because there are correctness conditions.

This interpretation of the normativity of meaning flattens the distinction between the extensional and the normative challenges of KA – providing an answer to the former automatically provides an answer to the latter. If the normativity of meaning can be understood as the existence of correctness conditions, explaining the possibility of determining the correctness conditions (i.e. the extensions) of terms will also immediately explain how we *should* use them. This simplifies the work of Kripkenstein’s opponent: if the simple argument is correct, providing an appropriate example of how correctness conditions are fixed would solve the skeptical paradox.

Hattiangadi (2007) has provided a more developed version of the normativity argument and its implications, following considerations by Boghossian (1989). She proposes that a charitable way of interpreting KA is to see it as analogous to certain arguments against moral realism, and in particular with a revised version of Moore’s Open Question Argument (1903, pp. 10–21). The argument against the existence of moral facts can be summarized as follows: moral facts would have to be *prescriptive* or *inherently motivating*, and natural facts we have access to do not seem to be prescriptive or inherently motivating. So moral facts cannot be reduced to natural facts. Following a line of argument defended by Mackie (1977), one can move from the conclusion that moral facts are irreducible to the conclusion that there are no moral facts at all. If moral facts cannot be reduced to natural facts, they are a *sui generis* class of unnatural facts that has some peculiar and unexplained property, namely inherent action-guidance (or something sufficiently similar). These facts are “queer,” create epistemic problems, render some causal relations mysterious, and lack appropriate philosophical explanation. The conclusion, again, is that we should forgo moral facts altogether.

We can see how this line of argument can easily be applied to semantic facts if we assume that they are normative. If semantic facts are normative, that means that they are prescriptive or inherently motivating, and so they cannot be reduced to natural facts that lack these properties. But the existence of *sui generis*, “queer” semantic facts is unacceptable (and creates epistemic and causal problems). We are left with no possible candidates that could take on the theoretical role we wanted, and we are required to give up on semantic facts. The simple argument upholds one of the assumptions that is needed for this argument to go through, namely the premise stating that semantic facts are normative.

There have been critics of the simple argument. Specifically, it has been pointed out that correctness conditions do not necessarily have any true normative force (Hattiangadi, 2007; 2009; Glüer & Wikforss, 2015), i.e. they do not determine what speakers *ought to do* in a significant sense. For example, Hattiangadi (2007, pp. 181–183) argues that semantic correctness creates no *categorical* obligations; it can only create obligations in connection with external desires or motivations, that is, hypothetical obligations. In contrast with cases that concern categorical normativity, hypothetical normativity seems to be reducible to non-normative facts. For example, the “ought” mentioned in “if you are going outside in the rain, you ought to bring an umbrella” is reducible to descriptive facts and does not seem to give rise to any genuine normativity. This is important because robust normativity is the kind of normativity needed for KA to go through, at least if we interpret it as has been described above – as analogous to certain arguments for moral antirealism.

As noted previously, KA can be interpreted as an argument against the existence of semantic facts due to their normative character. Critics of the simple argument show that the existence of correctness conditions is not a sufficient reason for assuming that meaning is irreducibly normative.

A pressing question, at this point, is whether we have any reason to believe that meaning is,

in fact, strongly normative. In a sense, the simple argument can be reinterpreted as an oblique rebuttal of this assumption: if the normativity of meaning simply is nothing more than the existence of correctness conditions, and correctness conditions do not provide us with robust normativity, our intuitions regarding the existence of semantic oughts rest on shaky grounds. The normativity requirement itself, then, is dependent on a misleading intuition. Semantic correctness is not sufficient for normativity.

Throughout the discussion surrounding KA there have been mentions of the fact that semantic correctness might not be the only type of correctness worth considering. If there were a different kind of correctness that could fill the appropriate theoretical role – that is, a correctness that could provide us with purely semantic and categorical norms – that could offer a viable alternative for the normativists. The rest of this paper will be dedicated to exploring whether linguistic correctness could be used as a basis for the normativity of meaning.

## 2. Semantic Correctness and Linguistic Correctness

Some philosophers have suggested that there are two different types of correctness: *semantic* and *linguistic*<sup>1</sup> (Buleandra, 2008; Millar, 2002; Reiland, 2023). This is interesting because the main focus in the literature has been on semantic correctness as a possible source of normativity. In other words, one might want to defend the idea that the source of genuine linguistic norms is linguistic correctness.

Defenders of this distinction between semantic and linguistic correctness point out that there are intuitions supporting the idea that we can use language correctly even if we stray from true application. For example, whenever I lie there is a sense in which I am using language correctly, even though I am saying something false, as I am speaking in accordance with the words' established meaning.<sup>2</sup> I can also be said to use an expression incorrectly even if I am saying something true – typical examples include speakers who misspeak, e.g. someone who uses “arcane” instead of “ancient” (substituting the two can contingently generate true statements which are nevertheless incorrect). Another sense in which one's use of language can be correct without being true is related to the fact that we can distinguish between appropriate and inappropriate ways of asking questions, giving orders, greeting someone, and so on.

These examples indicate that there are two different senses in which we might speak (in)correctly: one that is directly linked to true and false application and one that is not. To clarify this distinction (whether it turns out to be substantial or not), we can preliminarily define the two types of correctness as follows:

SC: A statement S is semantically correct if S is true.

LC: A statement S is *linguistically correct* if S is used in accordance with its meaning.

1 The quoted philosophers have not used the exact terminology I am using in this work but have made the same distinction. For example, Millar just distinguishes true application and application in accordance with the meaning of an expression, which is precisely how linguistic correctness is defined here.

2 This distinction has been made at least as early as in Anselm of Canterbury's *De Veritate*: “Therefore, a statement has one correctness and truth because it signifies what it is designed to signify; and it has another correctness and truth because it signifies what it has received the capability of signifying. The first of these correctnesses, or truths, belongs variably to the statement; but the second belongs to it invariably” (1998, Chapter 2 of *De Veritate*). The second type of correctness is said to belong even to false statements, as long as they signify something. I owe this observation to Paolo Di Lucia, who kindly directed me towards his 2011 paper which contains an insightful analysis and categorisation of the notions of correctness present in Anselm's work.

We saw that *semantic* correctness cannot account for the normativity of meaning because it does not provide us with anything beyond instrumental obligations. Norms related to whether we should use our terms in a semantically correct way are dependent on our desire to tell the truth. For example, a norm derived from semantic correctness – “you ought to use ‘green’ correctly” – does not seem to be in force unless it is accompanied by an external desire such as “*if you want to tell the truth*, you ought to use ‘green’ correctly.” Instrumental obligations are not proof of language’s normative character, as anything can be instrumentalized relative to our desires. For example, *if I* want to stay dry, I ought to bring an umbrella, but that does not mean that I have a general obligation to bring an umbrella; instrumental obligations are not a sign of genuine normativity.

On the other hand, *linguistic* correctness could have more profound normative consequences that are *constitutive* of or linguistic practices. The standard definition of constitutive rules characterizes them as creating or making possible new types of behaviors (Searle, 1969, p. 35). In the case of meaning broadly understood (i.e. conventional meaning, whether it can be analyzed truth-conditionally or not), the use conditions for a linguistic expression make possible the meaningful utterance of that expression – I cannot even participate in the practice of language if I don’t speak in accordance with the expressions’ use-conditions. Thus, the use conditions of an expression are constitutive of the conventional meaning of that linguistic expression.

To summarize what has been said until now, the distinction between linguistic and semantic correctness could have meaningful consequences for KA because the existence of linguistic correctness may vindicate the intuition that meaning is robustly normative, unlike semantic correctness.

The debate surrounding correctness and its normative implications has seen both supporters and deniers of the idea that there might, in fact, be two different types of correctness that are relevant to meaning. Typically, those who disagree that the notion is ambiguous insist that it is impossible to distinguish linguistic from semantic correctness (Reiland, 2023). As we have mentioned, this type of correctness is thought by many not to be robustly normative. To answer Kripke’s sceptic, then, a supporter of the notion that only semantic correctness is relevant to meaning can hold an anti-normativist position and argue that semantic correctness – which is reducible – is all there is to support the intuition that meaning is normative.

Reiland (2023) argues that the resistance to the idea that linguistic correctness is separate from semantic correctness comes from the implicit assumption that people can privately imbue words with meaning through their intentions (pp. 2201-2202). The reasoning of deniers of the distinction can be summed up as follows: there can be no linguistic error because people always mean what they intend to mean, and if they stray from publicly established norms for the usage of an expression this should always be interpreted as a type of linguistic innovation. In other words, “misuses” do not exist: if I say “good morning” to my husband right before we start eating dinner, what I am doing is not using the words “good morning” incorrectly, but trying to introduce a new word from a sort of individual language into English. The meaning of this individual language is determined by my intentions.

However, if one is to grapple with the skepticism inherent to KA, one cannot assume that individual intentions have a role in the determination of meaning: all content-laden states (such as belief, thought, and in this case intention) can be targeted by the skeptical argument in an analogous way. This is due to the fact that if we take, e.g., intentions to be the determiners of meaning, the sceptic can reply by pressing us regarding what exactly determines the content of the relevant intentions, leading us into a vicious regress. This type of argument can be easily generalized to all contentful states.

### **3. Is the Distinction Between Semantic Correctness and Linguistic Correctness Tenable?**

In any case, the idea that meaning is imbued into words via intentions is certainly not a necessary background assumption for the discussion at hand. This suggests that the distinction between LC and SC should not be flattened until someone provides further reasons to deny its existence.

**4. What Are Linguistic Correctness Conditions, and Shouldn't They Just Fall Under the Domain of Pragmatics?**

Something more should be said about linguistic correctness and what it consists in. Reiland (2023) proposes a generic definition of linguistic correctness which may be adapted to different theories: using an expression in accordance with its meaning is using it while being in its “*use-conditions*” (p. 2193). The relationship between linguistic correctness and use conditions could take on this form: “saying *S* is linguistically correct when certain conditions are satisfied.” In simpler terms, this means that there will be occasions in which it is linguistically appropriate to use an expression, and occasions in which it is not linguistically appropriate to use an expression. Reiland leaves use-conditions to be further specified. One way use-conditions could be fleshed-out is through reliance on use-conditional semantics. Semantics has historically been understood as the domain of *conventional meaning*, sometimes also called “literal meaning”, which was understood to be meaning as provided by a truth-conditional analysis. Any other meaningfulness found in language was posited as belonging to the domain of pragmatics. This basic criterion for distinguishing semantics from pragmatics has sometimes been represented as “pragmatics = meaning – truth-conditions” (Gazdar, 1979, p. 2). However, it has been argued that some aspects of meaning that have traditionally been thought to be within the domain of pragmatics should belong to semantics: in particular, some philosophers noted that there are conventional aspects of meaning that have little to do with truth-conditions. For example, “goodbye” is an expression that has a well-established conventional meaning, but whatever is expressed by “goodbye” is neither true nor false. It seems intuitive, then, that conventionally established meaning encompasses something more than purely truth-conditionally understood meaning. We may want to designate truth-conditionally based meaning as meaning in the strict sense, and conventionally based meaning as meaning in the broad sense. Since the appearance of Kaplan’s 2004 unpublished paper based on one of his lectures at UC Berkeley, titled “On the Meaning of ‘Ouch’ and ‘Oops,’” several philosophers have tried to bring forward the project of a use-conditional semantics, something that could help us make sense of and analyze this wider sphere of conventional meaning. Kaplan’s proposal is to provide a formal semantics that encompasses the conventional aspects of meaning which are, nevertheless, unanalyzable in truth-conditional terms. The idea stems from the simple insight that taking truth-conditionality and conventionality as the criteria for semantic relevance does not yield the same results, as we have seen – conventionality casts a wider net. Kaplan’s framework is designed to deal with expletives, indexicals, and other components of language which are unsuited to a truth-conditional analysis. As he notices, these types of expressions seem more suited to a use-conditional analysis: the truth-conditions of “I am blonde” change depending on who utters it, while its use-conditions – namely that the sentence is correctly used if the speaker is blonde – are fixed and seem to provide us with the meaning of the sentence in a more accurate sense. Not only that, but the use-conditions for these words intuitively provide us with information about the correct and incorrect ways of using them – and clearly, this is not *semantic* correctness, as there are no true or false utterances of “goodbye”. It should be underlined, then, that use-conditions as Kaplan understands them are a good candidate for what determines linguistic correctness. Truth-conditions and use-conditions can coexist. Following Kaplan’s basic idea, Gutzmann (2015) tries to develop a “hybrid semantics” that includes both truth-conditions and use-conditions. The goal of Gutzmann’s project is to build a framework that would enable us to apply the familiar tools of formal semantics even to non-descriptive, but still conventionally determined, features

of language. In his framework, while truth-conditions of propositions are based on sets of possible worlds in which the proposition is true, use-conditions are given by the sets of contexts in which an expression is “felicitously” used (Gutzmann, 2015, p. 18). It is safe to say that felicitous usage can model what we have, up until now, referred to as linguistic correctness.

As was mentioned previously, it seems as if the obligation to speak in a semantically correct way is dependent on desires that are external to meaning – being honest, for example. The normativity in question is extrinsic to meaning. The notion of speaking in accordance with a term’s use-conditions, on the other hand, seems to be inseparable from conventional meaning. A language is inconceivable without use-conditions and given a set of use-conditions in my language, I ought to speak in accordance with them, if I want to speak at all. This suggests that the “ought” derived from linguistic correctness is inherent to language in a way that the “oughts” derived from semantic correctness are not.

It might be helpful to rely on an example in order to clarify what this type of obligation may consist in and why it is different from an obligation to speak truthfully (i.e. in a semantically correct way). If we take a non-referring term such as “goodbye,” it’s clear that it has no truth-conditions we can adhere to. However, it is also clear that there are definite use-conditions which regulate its (linguistically) correct use: it is felicitous to say “goodbye” to people with whom we are parting, it is infelicitous to say “goodbye” when we’re sitting down to eat, and so on. The use-conditions for “goodbye” seem to provide us with something that is intimately tied with the meaning of the word and with being able to use it in the English language. If I do not adhere to the rules set by linguistic correctness, it can be doubtful that I am speaking at all and not merely making word-like noises.

Obligations, even ones stemming from constitutive rules, can be violated. Violating our obligation to use language according to its use-conditions has some interesting parallels to violating the constitutive rules of games. While straying from use-conditions of a language may be a sign that we’re not *speaking* it anymore, straying from central constitutive rules of a game is equally a sign that we’re not *playing* it anymore; however, in both cases violations may be used to innovate or constitute a new practice. This suggests that the possibility of linguistic innovation does not interfere with the idea that use-conditions are constitutive of meaning, just like the possibility of innovation within the rules of a game does not interfere with the idea that games are constituted by their rules.

One might object to the idea that LC is constitutive of meaning by arguing that the obligation to speak in a linguistically correct way is dependent on a desire to communicate or being understood. However, communication is widely accepted as being (at least) one of the primary functions of language. Because of this, it is difficult to conceive of participating in language in any way that precludes the desire to communicate something. When our aims are not to communicate or be understood, it is arguable that we are speaking at all. Desires related to such an integral function of language are not external to the practice. If you want your actions to count as playing chess, you should move the bishops diagonally across the board. If you want your actions to count as speaking, you should speak in a linguistically correct manner.

The idea that LC is constitutive of meaning broadly construed can be plausibly defended. However, this is not enough for our purposes: the position we set out to explore is that there are categorical meaning-norms, and that these are provided by LC. Constitutive rules do not automatically give rise to categorical oughts; the rules of chess are constitutive of chess, but I am not in any way categorically obligated to follow them. Just because I need to move bishops diagonally *in order to play chess* does not mean I ought, generally, to move bishops diagonally. I may not want to play chess at all.

## 5. Linguistic Correctness as Constitutive of Meaning

## 6. Can Linguistic Correctness Provide Us With Categorical Normativity?

However, there have been attempts at deriving categorical oughts from constitutive rules. Returning to the parallel between moral and semantic norms, some philosophers have suggested that in the case of categorical moral norms, they can be derived from facts about what is constitutive of being an agent. Enoch (2006) presents a survey of these attempts, where he individuates several goals of the theories he covers, one of which is responding to Moore's Open Question Argument and reinstating the possibility of a naturalistic explanation of moral norms. For our purposes, we may lay out the structure of these arguments as follows: there are some essential normative features of agency,<sup>3</sup> in the loose sense that without these features, agency would not be possible. Since agency is constituted by these features, one cannot be an agent and avoid the normative force posed by them.

"The Problem" with these proposals, as Enoch calls it, is the following: what if someone isn't *interested* in being an agent? What if I am a "schmagent," i.e. something similar to an agent but which differs in terms of the norms constituting it? If we can't rule out my being a schmagent and not an agent, there is simply no way of rendering the norms constitutive of agency categorical, which was the original goal. The key notion here is that of interest. It seems that for the "rules of agency" to have any hold over me, I need to have an interest in being an agent; and that is just a different way of saying that I need to have an external reason to be an agent (and not a schmagent). Categoricality does not seem to be derivable from constitutive rules.

We can see how this applies in an analogous way to the constitutive rules of meaning. If I want to speak, I should follow certain norms; but this normativity is dependent on external reasons to speak. Without these external reasons, I have no obligation to speak in any kind of way. The constitutive norms of meaning are not categorical.

Enoch considers several possible answers to The Problem that plagues attempts at deriving categorical norms from what is constitutive of agency, the most promising of which is the idea that there is no escaping being an agent. What if it makes no sense to ask whether I'm interested in being an agent because there is simply no way I cannot be an agent? Enoch argues that even if we are forced into a practice, that does not translate into having a categorical reason to follow the constitutive norms of that practice. There is still a need for an independent reason to act. He imagines a scenario in which we'd be forced to play chess – would we be categorically obligated to follow the rules of chess in that case? It's clear that unless we have a reason to want to play chess, we are not categorically obligated to play a certain way, even if playing is unavoidable.

The unavoidability line of argument does not only run into this kind of difficulty but is also less applicable to the case of meaning. While we could defend the idea of choosing and acting being unavoidable, not being a speaker is clearly at least conceivable. While opting out of language altogether is rare, it does not seem to be impossible, and so we could not argue along the unavoidability line even if it were promising.

**7. What We  
Are Left With:  
Linguistic  
Correctness and  
Our Intuitions  
About Meaning  
Normativity**

I will now briefly return to the assumption that is the reason for our exploration of LC: that meaning is categorically normative. KA is certainly stronger if we accept this premise. However, one could argue that we do not need categorical oughts to explain the intuitions this premise is based on – namely the intuition that there is a sense in which I *ought* to speak

<sup>3</sup> The account of which exact features are the agency-constituting ones will vary – this is simply a placeholder – but the ones mentioned by Enoch are the desire for self-knowledge (Velleman), good self-constitution (Korsgaard), and a placeholder used by Rosati: "motives and capacities constitutive of agency." Note the normative nature of each of these proposals.

a certain way. This is just another way to say that there are two possible types of strategies for contrasting the skeptical argument from its normative side: the first one is to accept its premise – that there are categorical semantic norms – and try to show that this fact is compatible with a coherent theory of meaning and does not leave us in an uncomfortable position. This work has focused on surveying a particular argument that could be made following this first strategy; namely, trying to show that there is a certain type of categorical meaning-normativity that is constitutive of language. As we have seen, this cannot work because there are great difficulties in deriving any type of categorical norms from constitutive facts.

The second type of strategy is to fight the assumption that meaning is robustly normative at all. One can then either take the intuition that meaning is normative seriously and try to explain it without relying on robust semantic norms; alternatively, it can be argued that our intuitions about the normativity of meaning are confused, misplaced, or unjustified.

I will not discuss these replies to KA here. The important thing to note is that distinguishing SC from LC can present an opportunity to craft an argument of this second type, too.

When the sceptic asks why it feels as if I ought to use expressions a certain way, one might account for this intuition by explaining that LC exists, that use conditions are constitutive of meaning broadly understood, and that *if* one is to speak, then they are *compelled* to speak in a linguistically correct manner. We are not compelled to speak – meaning that the “ought” in question cannot be categorical – but whenever we do, we feel the force of these constitutive norms; and this is an interesting fact about meaning and the practice of language. This can be the beginning of a compelling explanation of our intuitions that meaning is normative, without granting that the normativity in question is categorical.

Even if we take it that linguistic correctness is constitutive of meaning (broadly understood), this does not seem to generate categorical semantic norms. The existence of linguistic correctness, then, does not provide us with a reason to believe that meaning is irreducibly normative. However, recognizing that use conditions are constitutive of meaning can explain the intuitions that support the idea that meaning is normative. This may seem unsatisfactory to some, due to the fact that this framework places the source of our obligations not within standard truth-conditional meaning but within a broader conventional meaning. In a sense, this objection is warranted: the basis for Kripke’s normativity argument is that whatever facts determine the extensions of our terms cannot *also* account for the normative character of meaning.

I see no harm in trying to respond to the normative requirement of KA in this less orthodox way, that is, by understanding it as highlighting the difficulty in reconciling two different aspects of meaning: a) the fact that I *ought* to use language in a certain way, in a sense that is purely internal to meaning, even if the “ought” in question does not represent a categorical obligation; and b) the fact that a theory of meaning should ideally rely on naturalistic, non-opaque, publicly available facts. LC can help us explain a) while keeping open a possibility for resolving b).

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#### 8. Conclusions



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# CUSTOM IN ACTION. FERDINAND TÖNNIES' ONTOLOGY OF THE NORMATIVE<sup>1</sup>

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## abstract

*This paper deals with custom in action, namely, with the relationship between custom and action against the background of Amedeo Giovanni Conte's nomotropism. Starting with Frerichs' provocation of the peculiarity of saying 'handeln nach der Sitte' (acting according to custom) in favor of 'sich handelnd nach was üblich ist' (acting after what is usual), this paper will begin an exploratory research regarding the semantics and the ontology of custom to investigate the possibility of a nomotropic behavior in the field of custom. Therefore, this paper will quote, at first, Rudolf von Jhering's theory, and, at second, Ferdinand Tönnies' theory. In conclusion, this paper suggests that an inquiry into custom in action (and in particular Tönnies' ontology of the normative) could benefit from the nomotropic categories of analysis – such as adeontic and deontic regularities.*

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## keywords

*nomotropism, normative behavior, customs, Tönnies, Jhering*

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*Wo die Sitte wirklich lebendig ist, da findet sie eben regelmäßig  
Gehorsam, sie wird peinlich befolgt und wer von ihr abweicht,  
erscheint, wenn es nichts Schlimmeres ist, fast wie ein Irrsinniger; als  
so notwendig setzt sich regelmäßig die Sitte.*  
Ferdinand Tönnies<sup>1</sup>

*Di fronte all'esistenza di un comportamento regolare, come si rivela  
l'esistenza di una norma?*  
Norberto Bobbio<sup>2</sup>

**1. Accustomed  
Acting ('gesittetes  
Handeln')**  
1.1. *Accustomed  
Acting versus Acting  
in Accordance with a  
Law (or a Rule)*

Commenting on Tönnies' theory of custom, in *Sitte, Gesetz und Bedeutung. Eine semiotisch-logische Denkfigur bei Ferdinand Tönnies und Ludwig Wittgenstein* (1991) Klaus Frerichs claims that the relationship between custom and action appears different from the relationship between law and action: whereas we can say that someone acts *in accordance with* a 'Gesetz' (or with a 'Regel'), on the other hand we cannot properly say that someone acts *in accordance with the custom* [*nach der Sitte*].<sup>3</sup>

In support of this thesis, Frerichs stresses a difference between the two expressions used by German ordinary language:<sup>4</sup>

- 1) 'Handeln nach einem Gesetz' (or 'nach einer Regel').<sup>5</sup>
- 2) 'Handeln nach der Sitte'.

According to Frerichs, whereas the first expression seems to be well-formed ('handeln nach einem Gesetz'), the second one sounds peculiar ('handeln nach der Sitte').<sup>6</sup> Frerichs seems to argue

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1 See Tönnies (1909, p. 81). The English translation is: "Where it is truly alive, custom is regularly and conscientiously obeyed, and he who deviates from it appears almost deranged. This indicates how absolutely necessary custom considers itself" (Tönnies, 1961, p. 127).

2 "In the presence of regular behaviour, how is the existence of a norm revealed?" (Bobbio, 1980, p. 878, my translation).

3 Something similar could be said regarding 'handeln nach der Bildung'. Regarding cultural norms, see Mayer, (1903).

4 The topic regarding the relationship between reality, language and thought is widely discussed. See Strawson, 1959.

5 In Frerichs' work, the two expressions 'handeln nach einem Gesetz' and 'handeln nach einer Regel' are used as synonyms, see Frerichs (1991, p. 272).

6 Even if Frerichs' merit is to underline the conceptual peculiarity of the German expression 'handeln nach der Sitte', still he does not specify whether this peculiarity is at a semantical, syntactic or pragmatological level.

that the peculiarity of the German expression ‘*handeln nach der Sitte*’ is a linguistic cue of a deeper phenomenological distinction, namely, two different ways of experiencing normative behavior: ‘acting in accordance with a law (or a rule)’ versus ‘*gesittetes Handeln*’. The latter German expression can be translated into English with the paraphrase of ‘to be accustomed to act in that way’, henceforth ‘accustomed acting’.

Therefore, Frerichs suggests replacing ‘*handeln nach der Sitte*’ with the alternative expression ‘*sich handeln nach was üblich ist*’, literally ‘*acting after what is usual*’.<sup>7</sup>

Here is what Frerichs says in full:

Strictly speaking, one cannot act ‘according to custom’. One does or does not orient [*richten*] oneself according to a rule or a law. Custom is this acting after what is usual. Accustomed acting [*gesittetes Handeln*] is not acting in accordance with a rule but acting after... and therein an actual orienting of oneself after what is factual (1991, p. 272, my translation).<sup>8</sup>

Frerichs’ provocation stressing the peculiarity and the infelicity of the expression ‘*handeln nach der Sitte*’ in German addresses the attention to an important philosophical question: Does the peculiarity of the German expression conceal the ontological impossibility of the existence of an action oriented to custom? Why cannot ‘accustomed acting’ be defined in terms of acting in accordance with custom?

Frerichs’ provocation seems to address the impossibility of a nomotropic behavior in the field of custom.

In *Sociologia filosofica del diritto* (2011), the Italian philosopher of law Amedeo Giovanni Conte named ‘*nomotropismo*’ (nomotropism) the phenomenon of acting *in-function-of* rules.

Conte writes:

I named ‘*nomotropismo*’ [*Nomotropismus, Nomotropism, Nomotropisme, Nomotropizm*] acting *in-function-of* rules (2011, p. 47, my translation).<sup>9</sup>

Therefore, when Frerichs claims the peculiarity of the expression ‘*handeln nach der Sitte*’, he seems to deny the possibility of acting *in-function-of* rules of ‘*Sitte*’.

Speaking of that, I have combined Frerichs’ suggestions on customary behaviour with Conte’s theory of nomotropism because I contend that an analysis of ‘accustomed acting’ can benefit from the tools of nomotropism perspective. For instance, Conte’s theory of nomotropism considers a wider range of relationships between action and rules than Frerich’s analysis; as a proof of that, consider the following quote:

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7 In Frerichs reconstruction, “*Sitte ist Norm, da die Mitglieder der ‘gesitteten’ (nicht: sittlichen) Gemeinschaft sich tatsächlich, d.h. handelnd, nach dem richten, was üblich ist [Custom is norm, since the members of the ‘customary’ (not: moral) community actually, i.e., act, according to what is usual]*” (Frerichs, 1991, p. 272, my translation).

Nevertheless, the normative of custom does *not* manifest it-self as a ‘*Richtschnur*’ (guideline), a ‘*Maßstab*’ (standard), a ‘*Regel*’ (rule), a ‘*Vorschrift*’ (regulation) to which one can orient their behaviour according to (Frerichs, 1991, p. 272).

8 The German original: “*Strenggenommen kann man sich nicht ‘nach der Sitte’ richten. Man richtet sich oder richtet sich nicht nach einer Regel oder einem Gesetz. Sitte ist dieses Sich-handelnd-nach-dem-Richten, was üblich ist. Gesittetes Handeln ist keine Regelbefolgung, sondern ein Handeln in der Nachfolge von... und darin ein tatsächliches Sich-Richten-nach-dem-Tatsächlichen*” (Frerichs, 1991, p. 272).

9 The Italian original: “*Ho chiamato ‘nomotropismo’ [Nomotropismus, Nomotropism, Nomotropisme, Nomotropizm] l’agire in-funzione-di regole*” (Conte, 2011, p. 47).

Not necessarily (and not universally) acting in-function-of rules consists in the conformity with it. Acting in-conformity-with a rule is just the ‘limiting case’ [Grenzfall, caso limite, cas limite, przypadku ograniczenia] of nomotropism (2011, p. 24, my translation).<sup>10</sup>

Whether the relationship between custom and action can be defined in terms of normative behavior is a question that has been briefly touched upon, but not considered yet by the philosophical disciplines such as analytical philosophy of law or social ontology.<sup>11</sup> Nevertheless, the works of the German jurist Rudolf von Jhering (1818-1892) and of the German sociologist Ferdinand Tönnies (1855-1936) could be considered as two paradigms of analysis of the nature of the relationship between ‘Sitte’ and action. Even though their works precede the development of the aforementioned disciplines (analytical philosophy of law and social ontology), their suggestions could have an impact on them.

## 2. Two Paradigms of Analysis of Custom in Action

### 2.0. From Semantics of ‘Sitte’ to Ontology of Custom

Jhering and Tönnies studied custom from different perspectives of analysis – namely, the juridical and the sociological ones, respectively – and they indirectly have contributed to laying the ground for an ontology of custom. In fact, even if they both started with studying ordinary language’s use of the term ‘Sitte’, they seem indirectly end up configuring two antithetical ontologies of ‘Sitte’.<sup>12</sup>

Jhering studies the complex phenomenon of ‘Sitte’ through the category of ‘purpose’ [der

10 The Italian original: “Non necessariamente (e non universalmente) l’agire in-funzione di una regola consiste nella conformità ad essa. L’agire in-conformità-alla regola è solo il caso-limite [Grenzfall, limiting case, cas limite, przypadku ograniczenia] del nomotropismo” (Conte, 2011, p. 24).

11 *Custom, Law, and Morality. Conflict and Continuity in Social Behaviour* (1969) by B. Leiser is an exception of systematic philosophical study about customs. A second exception is the economic analysis by E. Schlicht, called *On Custom in the Economy* (2018). Otherwise, ‘Sitte’ is at the centre of interest for juridical anthropologist studies, see Malinowski, 1926. Nevertheless, the philosopher of law G. H. von Wright inserts custom within his mapping of norms in *Norm and Action* (1963). Even if von Wright’s work is not a systematic one on customs, he outlines a normative mapping in which he inserts ‘rules’, ‘prescriptions’ and ‘technical norms’ (or ‘directiveness’), and, alongside this tripartition, he sets a parallel articulation, i.e., ‘customs’, ‘moral principles’ and ‘ideal rules’. Moreover, Von Wright uses the expression ‘live in accordance with’ custom underling the impact of custom on cultural values of a community: who violates a custom is considered as ‘stranger’ rather than ‘outlaw’ (von Wright, 1963, pp. 8-9). Finally, in the works of J. R. Searle, one of the major scholars within the social ontology framework, we can find the concept of ‘background’ and of ‘rules of community’, that can be compared with rules of customs. See Searle, 2019.

12 Jhering and Tönnies’ works are remarkable for their pioneer research into the etymological root of the term ‘Sitte’. Generally speaking, the term ‘Sitte’ [‘custom’, ‘costume’] could relate to a ‘polythetic classification’ (Needham, 1975) since it counts a plurality of meaning and uses in the majority of the European languages. In fact, within the ordinary language linked to the semantic of ‘Sitte’, it is common to find ‘false friends’ – such as ‘custom’, ‘costume’, ‘coutumier’ and ‘costumbre’ – thinking that they are synonymies while they cover different meanings. The etymology of terms ‘Sitte’, ‘custom’, ‘costume’ relates to the common Indo-European root \**se-swodha*. This Indo-European root gave rise to the Greek substantive ἔθνος and the Latin substantive ‘*consuetudo*’. The Greek substantive ἔθνος, -ους means ‘habits’, ‘Gewohnheit’, ‘abitudine’, while its variant ἡθός, -ους means ‘natural disposition’, giving rise to the substantive ἡθολογία, i.e., the science of the relationship between the natural disposition of human being and goods and bad values. Moreover, ‘ethology’ has the same etymology. The Latin substantive ‘*consuetudo*’ comes from the verb ‘*consuescere*’. The verb ‘*consuescere*’ is composed of *con-* (*cum*), together, and the verb “*suesco, suēvi, suetum, ēre*” linked to the possessive pronoun ‘*suus*’, meaning “to make one’s own”, “*abituarsi*”, “*sich zur Gewohnheit machen*”. The first occurrence of the verb ‘*sueo, -re*’ is in Lucrezio I, 60. Later, in Cicero II the verb ‘*suesco, -ere*’ appears in the formula ‘*quod suesti*’, meaning “as you are used to”. See ‘Sitte’ in *Etymologisches Wörterbuch des Deutschen. Band Q-Z* (1989), p. 1639; ‘Gewohnheit’ in *Zur Lehre vom Rechtsbegriff* (1963), pp. 598-618; ἔθνος in *Etymon Lessico per radici. Guida all’apprendimento del lessico greco* (1993), p. 244; ἡθός in *Dictionnaire étymologique de la langue grecque : histoire des mots* (1983), pp. 407-408; ‘Custom’ in *The Concise Dictionary of English Etymology* (1884), p. 106; ‘Custom’ in *The compact edition of the Oxford English dictionary: complete text reproduced micrographically* (1987), p. 168; ‘Custom’ in *Heinemann English Dictionary* (1979), p. 261; ‘Costume’ in *Dizionario etimologico della lingua italiana: l’origine delle nostre parole* (2005), p. 86.

Zweck]; by doing so, he attempts to frame the role that the purpose of the 'Sitte' plays alongside law and morality within 'die Weltordnung' (the mundane order).<sup>13</sup> The outcome is a theory of 'Sitte' where 'Sitte' has a univocal meaning applied to a plurality of cases (§ 2.1.). Tönnies goes deep into the plurality of linguistic meanings and ontological dimensions of 'Sitte' in social reality by using the category of 'will' [*der Wille*] to focus on how individuals differently experience 'Sitte'. The outcome is a theory that distinguishes three linguistic meanings corresponding to a threefold ontological dimension of 'Sitte' (§ 2.2.).

2.1.1. Jhering is among the first authors who pointed out a semantical and ontological difference between the term 'Sitte' (custom) and the term 'Gewohnheit' (customary practice) in *Der Zweck im Recht. Zweiter Band* [1883, <sup>2</sup>1886, *Law as a Means to an End. Second volume*, not translated into English yet].<sup>14</sup>

According to Jhering, while 'Gewohnheit' stands for a simple regular practice that needs to be accepted and then eventually codified by law to assume normative characteristic, 'Sitte' has an inner '*verbindende Kraft*' (normative force) of which 'Gewohnheit' is lacking.<sup>15</sup>

2.1.2. To what extent does this inner normative force characterize the 'Sitte'? According to Jhering, this inner normative force bears evidence of the nomologic nature of 'Sitte'. In fact, 'Sitte' has its own nomologic dimension, called by Jhering '*Sittengesetz*', i.e., law of customs.<sup>16</sup> According to Jhering, the *Sittengesetz* acts autonomously in social reality beside law and morality, since *Sittengesetz* is characterized by a '*psychologische Zwang*' (a psychological-coercive dimension). Jhering says:

Just as the law has its mechanical coercion expressed by the state, so the law of custom has its psychological coercion expressed by society (1886, p. 181, my translation).<sup>17</sup>

The psychological coercion is exercised by public opinion and has the power to regulate individuals' behavior, sometimes even over and beyond prescriptions of statutory law.<sup>18</sup> In fact, according to Jhering:

This coercion manifests itself in public opinion. It is the power that surrounds us everywhere, from which no one can escape, no matter how high his position, and

2.1. First Paradigm:  
Rudolf von Jhering's  
Ontological Thesis on  
Custom

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<sup>13</sup> Jhering commonly uses the not so clear term 'Weltordnung' in *Der Zweck im Recht. Zweiter Band* to refer to the whole social matter.

<sup>14</sup> Jhering is one of the very first scholars to address the urgent need of a deep analysis regarding customs phenomena. He says: "[D]ie Sitte bildet nicht bloss das jüngste, nachgeborene Kind der Ethik, sondern das verwahrloste, das Stiefkind: ihren beiden älteren Schwestern: der Moral und dem Rechte gegenüber ist ihr bisher das Los des Aschenbrödels zu Theil geworden [Sitte is not only the youngest child of ethics, but also its most neglected, its stepson, who has suffered the fate of Cinderella compared to his two older sisters, morality and law]" (Jhering, 1886, p. 332, my translation). Almost a century later, the philosopher Burton Leiser remarks the limited attention that the scientific literature has given to customs topic, saying: "of the great triumvirate – morals, law, and custom – only one has suffered virtually complete neglect at the hands of philosophers. [...] Moral philosophers have studied morals [...]. Legal philosophers have studied law [...]. But until now, there has been no philosopher of custom" (Leiser, 1969, p. 1).

<sup>15</sup> For a broader explanation, see Jhering, 1886, pp. 21ff.

<sup>16</sup> As well-known, Immanuel Kant uses the term '*Sittengesetz*' with the meaning of law of morality. For an insight into the different uses of this term, see Spiegelberg, 1935.

<sup>17</sup> The German original: "Wie dem Rechtsgesetze die mechanische Zwangsgewalt des Staats, so correspondiert dem Sittengesetze die psychologische Zwangsgewalt der Gesellschaft" (Jhering, 1886, p. 181).

<sup>18</sup> In this regard, Jhering provides a wide range of cases in which the content of customary norms conflicts with the obligations of statutory laws, for instance see the cases of the 'gambling debts', 1886, pp. 240-241.

that sues even those who cannot be reached by the arm of the law or who have been acquitted by the judge (1886, p. 181, my translation).<sup>19</sup>

2.1.3. Nevertheless, *Sittengesetz* is not customary law [*Gewohnheitsrecht*]. The latter, according to Jhering, is the result of the juridical qualification of a custom as a legal duty and not even more a social duty. Jhering says:

If the idea of social duty, animator of custom, is condensed into legal duty, custom is transformed into customary law (1886, p. 246, my translation).<sup>20</sup>

2.1.4. But what are the phenomena ruled by *Sittengesetz*?

Jhering offers a specific mapping of social phenomena ruled by *Sittengesetz*, which he calls '*die Systematik der Sitte*' (systematics of *Sitte*). To map all the types of custom, Jhering adopts two different criteria.<sup>21</sup>

The first criterion is the social utility of the type of custom. Based on this first criterion, Jhering observes three different classes of custom.

- 1) Bad custom or misconduct [*die böse Sitte oder die Unsitte*].<sup>22</sup>
- 2) Socially indifferent custom [*die social-indifferente Sitte*].<sup>23</sup>
- 3) Good or socially useful custom [*die gute oder social-werthvolle Sitte*].<sup>24</sup>

Furthermore, in order to determine to which type of custom a phenomenon belongs, Jhering employs a second criterion, namely, the criterion that considers the 'content of the obligation' of the analyzed custom: if the content is economic, then the analyzed custom is a '*Sitte des Gebens*' (*Sitte* of giving); if the content is not economic, then the custom analyzed is a '*Sitte des Lebens*' (*Sitte* of life).<sup>25</sup>

Regarding 'customs of life', that are the manifestation of a non-economic '*Personalzwang*' (personal coercion), Jhering discovers three 'criteria' through which *Sittengesetz* acts on individual behavior.<sup>26</sup> Those are:

- 1) '*Höflichkeit*' (courtesy).
- 2) '*Anstand*' (*decorum*).
- 3) '*Takt*' (tact).<sup>27</sup>

2.1.5. To sum up, Jhering analyzed custom as a phenomenon that runs alongside law and morality in the ruling of social reality. Therefore, starting from the focus on the purpose [*der*

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19 The German original: "Sie bethätigt sich in der öffentlichen Meinung. Es ist die Macht, die uns auf Schritt und Tritt umgibt, der Niemand, auch der Höchste nicht, sich entziehen kann, und die auch diejenigen, welche der Arm des Gesetzes nicht erreichen kann, oder welche der Richter freigesprochen hat" (Jhering, 1886, p. 181).

20 The German original: "Verdichtet sich die in letzterer pulsierende Idee der socialen Verpflichtung zur rechtlichen, so wird die Sitte Gewohnheitsrecht" (Jhering, 1886, p. 246).

21 See Jhering, 1886, pp. 281ff.

22 Jhering provides as examples: tip, duel and paying gambling debts.

23 Jhering does not provide an example of socially indifferent customs.

24 Jhering provides as examples: gift-giving, Sunday holiday, clothing's rules.

25 To go into details, see Jhering, 1886, pp. 281ff.

26 The derivation of those tree criteria from the term '*Sitte*' is one of Jhering's concepts that Tönnies criticises. See Tönnies, 1909, p. 70; 1961, p. 113.

27 According to Jhering, the tact is the expression of the 'sense of expediency or demeanour' [*Schicklichkeitsgefühl, Anstandsgefühl*]. Regarding customs, Tact has a guiding role like the role of the 'sense of law' [*Rechtsgefühl*] in legal matters and the role of the 'sense of morality' [*Sittlichkeitsgefühl*] in moral matters. In particular, Jhering recognises the importance of the tact as an orienting rule, especially in uncertain circumstances when individuals have to find by them own a way of acting. In fact, Jhering analyzes the tact "in seiner praktischen Function als Wegweiser für das eigene Handeln [in its practical function as a guide for one's own actions]" (1886, p. 41, my translation).

Zweck] of the custom within this perspective, he ended up offering an ontology of custom in which custom has its own nomological dimension, i.e., the ‘*Sittengesetz*’.

Jhering maintains that the purpose [*der Zweck*] of custom is to play the role of “function of confirmation of morality” (1886, p. 275, my translation),<sup>28</sup> meaning that: “custom is the police of morality” (1886, p. 291, my translation).<sup>29</sup>

In this regard, Jhering claims that custom plays the role of confirmation of morality as follow:

Custom forbids what is merely dangerous, morality what is intrinsically harmful (1886, p. 226, my translation).<sup>30</sup>

2.2.1. Differently from Jhering’s univocal reconstruction of the nature of custom, Tönnies prospects a complex relationship between custom and action.<sup>31</sup>

In fact, in *Die Sitte* (1909, English translation: *Custom* 1961), according to Tönnies, the term ‘*Sitte*’ covers a threefold linguistic meaning [*Bedeutung*] commonly used in German ordinary language:<sup>32</sup>

- 1) ‘*Sitte*’ as ‘*Tatsache*’ (mere matter of fact).
- 2) ‘*Sitte*’ as ‘*Gewohntsein*’ (individual habit),
- 3) ‘*Sitte*’ as norm established by ‘*sozialer Wille*’ (social will).

Tönnies says:

The word ‘*Sitte*’ (custom) embraces the threefold meaning [*Sinn*] of mere fact, of norm, and of the will which sets the norm (1961, p. 35).<sup>33</sup>

2.2.2. The first meaning that the term ‘*Sitte*’ covers is the meaning of ‘*Tatsache*’, that refers to “a matter of fact [*Tatsache*] of an objective nature” (Tönnies, 1909, p. 7; 1961, p. 29). Waving goodbyes, giving presents, using language courtesy formulas, they all are simple facts, acts and gestures.

Here, Tönnies focuses the relationship between custom and the action of doing it. In fact, the noun ‘*Tatsache*’ is composed by ‘*Sache*’ (thing), and ‘*Tat*’ (action), meaning ‘*Sache der Tat*’ (matter of deed). The use of ‘*Tatsache*’ is meaningful: on the one hand, the normative dimension of custom as a rule is a fact; on the other hand, the effortless nature of performing a rule of custom is also a fact given the stratification over the time of the experience of customary acting. In fact, according to Tönnies, “the essence of custom lies in actual practice” (1899, p. 304).<sup>34</sup>

<sup>28</sup> The German original: “sittlich-adminiculirende Bestimmung” (Jhering, 1886, p. 275).

<sup>29</sup> The German original: “die Sitte ist die Polizei im Dienste der Moral” (Jhering, 1886, p. 291).

<sup>30</sup> The German original: “[die Moral] verbietet das an sich Schädliche, [die Sitte] bloss das Gefährliche” (Jhering, 1886, p. 264).

<sup>31</sup> Regarding the Jhering’s influence on Tönnies, see Presi, 2023. Tönnies’ interest in the terminology of ‘*Sitte*’ appears also in his previous work *Philosophical Terminology* (1899).

<sup>32</sup> It is not clear whether Tönnies uses the term ‘*Bedeutung*’ to express ‘meaning’ or ‘referent’. Although he quotes the German ordinary language meanings of term ‘*Sitte*’, on the other hand, Tönnies seems to assign a concurrent threefold ontological dimension to them. In fact, we can see the matter of fact [*Tatsache*], an individual ontological dimension [*Gewohntsein*], and a social ontological dimension [*sozialer Wille*]. Those threefold meanings are called ‘*Strukturmomente*’ of custom by Frerichs (1991, p. 272).

<sup>33</sup> The German original: “Das Wort Sitte bedeckt jenen dreifachen Sinn, den der bloßen Tatsache, den der Norm und den des Willens, der die Norm setzt” (Tönnies, 1909, p. 12).

<sup>34</sup> Regarding this, Frerichs remarks that “*Über Sitte non est disputandum*” (Frerichs, 1991, p. 273). Michele Basso says that: “il fatto che la si voglia fare sta nella costatazione che la si fa, e mai viceversa [the fact that we want to perform it



Moreover, Tönnies explains ‘*Tatsache*’ as follows:

We mean nothing more than that one is ‘used to’ doing so, he does it regularly, it belongs to his way of life (1961, p. 30).<sup>35</sup>

2.2.3. The second meaning that the term ‘*Sitte*’ covers is the meaning of ‘*Gewohntsein*’, that refers to “a rule, a norm [*Norm*], which a person establishes for himself” (Tönnies, 1961, p. 30),<sup>36</sup> such as taking a walk, getting up early, and taking a nap.

Tönnies designates the nature of this individual regularity through the concept of ‘*das Gewohntsein*’ (habituation, wontedness).<sup>37</sup> Tönnies says:

We may say “he has made it a habit” and, in the same sense, “he has made it a rule for himself” or even a “law”, and we mean that the habit operates like a law or like a “precept”. One follows it; one regards the habit as a binding command, a subjective creation which, however, has objective form and validity (1961, p. 30).<sup>38</sup>

According to Tönnies, habituation is “conceived of as a characteristic of an individual” (1961, p. 31).<sup>39</sup> In this regard, it is noticeable Tönnies’ choice of using the term ‘*Gewohntesein*’, namely, the *quality* of state of being accustomed to.

Moreover, according to Tönnies, habituation is experienced by individuals as a ‘natural’ disposition, similar to a ‘spontaneous’ disposition.

Established habits imperceptibly change into the instinctive. What we do habitually we do ‘involuntarily’ just as we involuntarily make gestures, movements of welcome and of repulsion which have never been taught to us but in which we are skilled “by nature”. [...] However, what we are accustomed to do, we have had to learn and practice first (Tönnies, 1961, pp. 31-32).<sup>40</sup>

In fact, according to Tönnies, it would be a mistake to conflate habituation with spontaneous action, because we often experience a habituation as a “*leidige Gewohnheit* [*annoying habit*]” (1909, p. 10; 1961, p 34). That happens because habituation goes against our will,<sup>41</sup> given that

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lies in the observation that we are doing it, and never *vice versa*]” (Basso, 2019, p. 27, my translation).

35 The German original: “Er pflegt so zu tun, er tut es regelmäßig, es gehört zu seiner Lebensweise” (Tönnies, 1909, p. 7).

36 The German original: “Die Bedeutung einer Regel, einer Norm, die der Mensch sich selbst gibt” (Tönnies, 1909, p. 8).

37 This concept seems to recall the Aristotle’s concept of ‘ἕξις’ (hexis). The author is grateful to Professor Edoardo Fittipaldi for this suggestion.

38 The German original: “Wir sagen wohl: er hat es sich zur Gewohnheit gemacht, und im gleichen Sinne: er hat es sich zur Regel oder sogar zum “Gesetz” gemacht, und meinen, daß die Gewohnheit wirke wie ein Gesetz oder wie eine “Vorschrift” – man richtet sich danach, man schaut die Gewohnheit an, wie ein verpflichtendes Gebot, ein Gebilde von subjektiver Art, das aber objektive Form und Geltung hat” (Tönnies, 1909, p. 7).

39 The German original: “Das Gewohntsein [wird] als Eigenschaft eines Individuums gedacht [...]” (Tönnies, 1909, p. 8).

40 The German original: “Unmerklich geht das Gewohnheitmäßige in das Instinktive, das Triebartige über: was wir gewohnt sind zu tun, das tun wir “unwillkürlich”, ebenso wie wir unwillkürlich Gebärden machen, Bewegungen des Willkommenheißen und Abwehrbewegungen, die uns niemals gelehrt worden sind, die wir “von Natur” können [...]. Was wir aber gewohnt sind zu tun, das haben wir erst lernen und einüben müssen” (Tönnies, 1909, p. 9).

41 As remarked by Turner (1994, pp. 85-92), Max Weber inherits Tönnies’ hypothesis regarding an ‘*annoying habit*’ experienced in response to the attempt of going against a habit. From a biological point of view, Weber says: “Abweichungen davon [scheinen] äußerst beunruhigend [und] auf den Durchschnittsmenschen psychisch ganz ähnlich zu wirken wie Störungen organischer Funktionen [a [variation] from the customary [acts] on the psyche of the

habituation “also compels [us] to certain conduct and action” (Tönnies, 1961, p. 31).<sup>42</sup>

The concept of habituation as disposition to usually act after our individual norm and the feeling of ‘annoyance’ are cues of normative behaviors. Therefore, Tönnies seems to suggest that even the habituation meaning of the term ‘*Sitte*’ shows evidence of its normative character.

2.2.4. The third meaning that the term ‘*Sitte*’ covers is the meaning “expression of the ‘*sozialer Wille*’ (social will)”, that refers to the proper concept of customary norm in Tönnies, given that “the will sets the norm” (1961, p. 35).<sup>43</sup>

In fact, when a rule of habituation, established by the individual will, becomes the expression of a social will, only then does that rule of habituation become a customary norm as “expressive of volition or of a will” (Tönnies, 1961, p. 30).<sup>44</sup>

Tönnies also considers the case in which a norm of custom expressed by the ‘*sozialer Wille*’ conflicts with a statutory norm as proof of the normative force of custom:

We know that where law and the executive power of the state compete with custom, custom often proves itself to be superior, and that it is always held to be older and more sacred. We can thus understand custom as a *sort of legislative will* [gesetzgeberischer Wille] (1961, p. 42, emphasis added).<sup>45</sup>

2.2.5. The nomologic dimension of custom as expression of ‘*sozialer Wille*’ is clear since Tönnies addresses a ‘general rule’ [*allgemeine Regel*]: “the ancestral practices are regarded as the essential basis for duty to which the living are bound” (1961, p. 44).<sup>46</sup>

But what is the role of the ancestral practices? According to Tönnies, the nomologic dimension of custom does not consist in – as Jhering instead suggests – conforming our behavior to the normative prescription of a rule of custom (or of a ‘*Sittengesetz*’). On the contrary, the peculiarity of the nomologic dimension of custom is that we conform our behavior to what our ancestors *have done* in the past, not what they have decided to do. In fact, the social will is “based on tradition” (Tönnies, 1961, p. 42).

The fact that our forefathers held it ‘this way’ and practiced it, will always be given as

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average individual like the disturbance of an organic function]” (Weber, 1922, p. 188; 1922/1978, p. 320).

42 The German original: “Sie nötigt auch zu bestimmtem Tun und Handeln” (Tönnies, 1909, p. 8-9).

43 The German original: “[D]er [Wille setzt] die Norm [...]” (Tönnies, 1909, p. 12). In a previous work, *Gemeinschaft und Gesellschaft* (1887), Tönnies hypnotized the existence of a human ‘*Wesenwille*’ [an essential will]. According to Tönnies, the *Wesenwille* is a necessary and rational will and it acts both on individuals and on communities, in fact: “Gewohnheit ist ein Ausdruck des individuellen, Sitte des sozialen Wesenwillens [Habit is an expression of individual *Wesenwille* and custom an expression of social *Wesenwille*]” (1909, p. 17; 1961, p. 42). Many authors – among them Weber – do not agree with the ontological assumption of the existence of a ‘social will’. This critic is subscribed also by the German philosopher of law Hans Kelsen, as reported in *Der Soziologische und der Juristische Staatsbegriff: Kritische Untersuchung des Verhältnisses von Staat und Recht* (1920) and in *Der Begriff des Staates und die Sozialpsychologie: Mit besonderer Berücksichtigung von Freuds Theorie der Masse* (1922). The author thanks Professor Lorenzo Passerini Glazel for the indication of the latter Kelsen’s work.

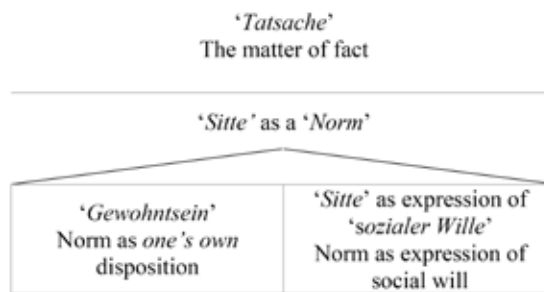
44 The German original: “Ausdruck für ein Wollendes oder einen Willen” (Tönnies, 1909, p. 7).

45 The German original: “Wissen wir, daß Sitte im Volks- und Völkerleben eine überschwängliche Gewalt besitzt, daß sie, auch wo das Gesetz und die dahinterstehende Staatsgewalt mit ihr konkurriert, oft sich als dieser überlegen an Stärke erweist, und daß sie überall älter ist und heiliger gehalten wird als diese. Wir können also die Sitte nach Art eines gesetzgeberischen Willens auffassen” (Tönnies, 1909, p. 17).

46 The German original: “Die Praxis der Vorfahren als wesentlicher Grund der Pflicht gilt, an die sich die Lebenden gebunden halten” (Tönnies, 1909, p. 19).

the decisive reason why we, too, should hold it this way and follow the same practice. [...] The main idea is not that *our ancestors wanted or demanded it, but that it is required because they have done it*. It is based on the common reasoning that we must and we want to act as our forefathers have acted; we must and we want to follow their example and their precedents (Tönnies, 1961, p. 43, emphasis added).<sup>47</sup>

To sum up, Tönnies’ threefold theory of the meanings of the term ‘*Sitte*’ could be schematized as follows:



**3. Concluding Remarks**

Starting from Frerichs’ provocation of the hypothetical impossibility of acting *in-function-of* custom, as a response this paper reconstructs two paradigms of analysis of the relationship between custom and action.

The first paradigm is offered by Jhering, who draws an analogy between the field of custom and the field of law. In fact, the German jurist seems to admit the possibility of acting *in-function-of* custom, given that the normative behavior in the field of custom is regulated by a specific law, i.e., the ‘*Sittengesetz*’ (law of custom).

The second paradigm is offered by Tönnies, who provides a more articulated analysis. To properly account for Tönnies’ articulation, I suggest making use of a distinction elaborated by Conte in his theory of nomotropic behavior, namely the distinction between the phenomenon that he calls ‘*deontic regularity*’ [*regolarità deontica*] and the phenomenon that he calls ‘*adeontic regularity*’ (or ‘*ontic regularity*’) [*regolarità adeontica, regolarità ontica*] (see Conte, 2011, pp. 25ff.). While ‘*deontic regularity*’ designates a regularity of action that is oriented to a norm (regulated behavior), an ‘*adeontic regularity*’ designates a regularity of acting that is not oriented to a norm (regular behavior).<sup>48</sup> Conte writes:

I introduced the concept of *deontic regularity* (regularity in-function-of rules). The opposite of *deontic regularity* is the *adeontic regularity* (*non-deontic regularity, ontic regularity*). *Adeontic regularity* is the regularity which is *not in-function-of rules* (2011, p. 25, my translation).<sup>49</sup>

47 The German original: “Die Tatsache, daß die Väter es so gehalten und geübt haben, wird regelmäßig als der entscheidende Grund dafür angegeben, daß wir es auch so halten und üben sollen oder müssen. [...] Nicht, daß die Vorfahren es gewollt oder geboten haben, sondern daß es geboten sei, weil sie es getan haben, ist der erste Gedanke” (Tönnies, 1909, p. 17).

48 The distinction between ‘*regular behaviour*’ and ‘*regulated behaviour*’ is also well-explained by the Italian philosopher of law Norberto Bobbio in *Enciclopedia Einaudi* (1980, pp. 877-878). In this occasion Bobbio does not deal with customs, but he did in *La consuetudine come fatto normativo* (2010, original work: 1942). For a recent comment regarding it, see Di Lucia, 2022.

49 The Italian original: “Ho introdotto il concetto di *regolarità deontica* (*regolarità in-funzione-di regole*). L’opposto della *regolarità deontica* è la *regolarità adeontica* (*regolarità non-deontica, regolarità ontica*). *Regolarità adeontica* è *regolarità che non è in-funzione-di regole*” (Conte, 2011, p. 25).

In the light of Conte's terminology, Tönnies seems to distinguish different normative behaviours in the field of custom based on the meaning of the term 'Sitte'. In fact, Tönnies seems to maintain that when 'Sitte' merely means a matter of fact [*Tatsache*], we are facing an *adeontic* regularity. Concurrently, Tönnies seems to affirm that when 'Sitte' means habituation [*Gewohntsein*] or expression of social will [*sozialer Wille*] we are facing *deontic* regularities.

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SECTION

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# SECTION IV

TRUTH AND VALIDITY IN ACTION: NORM EFFECTIVENESS AND NOMOTROPIC BEHAVIOUR

*Pascal Richard*

Norms as “Intentional Systems”

*Alba Lojo*

The Semantic Conception of Efficacy and Constitutive Rules: Mapping a Tough Relationship

*Giovanni Bombelli*

Normativity, Truth, Validity and Effectiveness. Remarks Starting from the Horizon of the “Common Sense”

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# NORMS AS “INTENTIONAL SYSTEMS”

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## *abstract*

*The present paper investigates the nature of norms in correlation to the philosophical notions of intentionality and disposition. Following Amselek (2017; 2020), norms are here understood as tools giving the measure of what is possible to do. Intentionality, understood as “being-about”, in relation to norms allows us both to form a description of reality in the norm, and to correct our actions in order to correspond to the norm. Through the notion of disposition, i.e., on the one hand, the linguistic manifestation of the norm and, on the other hand, the physical presence of individual mental states or social states-of-affairs, the paper investigates the “force of norms” and the “mystery of effectiveness”. Elaborating on the notion of “nomotropism”, which highlights the different ways in which a norm may work or operate, and drawing inspiration from Dennett’s philosophy of mind, the paper suggests that legal norms, which allow for the expectation that social behaviors will be measured by specific standards or yardsticks, clearly offer an evolutionary advantage in the regulation of human relationships.*

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## *keywords*

*norms, intentionality, intentional strategy, philosophical dispositions*



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*I notice one thing and I look for its reason; this means originally that I look for an intention, that I look above all for the one who had this intention, the subject, the author; every fact is an act – formerly we saw intentions in all facts, it is our oldest habit.*  
F. Nietzsche, *The Will to Power*<sup>1</sup>

### **1. Norms, Intentionality, and Dispositions**

In the exergue of one of his works, dedicated to normativity, Professor Paolo Di Lucia (2003) resumes the formula of Maurice Blondel quoted: “The norm constitutes the living and secret armature of the beings”.<sup>2</sup> It is a possible answer to this “secret” that expresses according to us, the “philosophical dispositions”. They seem to convey “this cement of the things” (Tiercelin, 2021) which makes us capable of projecting ourselves with efficiency in the future and in a world which appears from then on as endowed with a certain continuity.<sup>3</sup> It is this continuity that one finds in norms and legal dispositions.

Let’s first clarify the definitions that we will adopt for the benefit of certain concepts. The *norm* should be understood in our study as a tool for measuring what it is possible to do. *Intentionality*, on the other hand, offers us the opportunity to stick to reality, and it also participates in norming it: in philosophical discourse, it usually designates the fact of “*being-about*” something.<sup>4</sup> This intentionality that is granted to the norm will thus play in two senses: one the one hand, it allows us to “form” a description of reality (on the basis of a certain belief linked to it: reality is thus poured into the norm which participates in norming the latter); one the other hand, it offers to measure the correction of the action with respect to the norm. In this way, regulatory norms of our behaviors and constitutive norms with respect

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1 F. Nietzsche, *La volonté de puissance*, Paris, Gallimard, 1995, T. 1, p. 62.

2 In the same book, Professor Di Lucia observes that the concept of effectiveness of the norm can be declined in three forms: effectiveness as conformity (or correspondence) between the rule and the effective action; effectiveness as effect or implementation of the rule on the effective action (as capacity to act according to the norm); effectiveness as aptitude of the rule to produce legal effects (2003, chapter 9 “Norma *in actu*. Efficacia senza adempimento”). The third approach is, as Professor Di Lucia observes in note 8, a dispositional concept. On this question, see also U. Scarpelli (1959/1985).

3 It is a question of considering the possibility of a thought endowed with a “long view” in order to allow the creation of a continuity in order to have relevant information.

4 The intentionality of a mental state is thus the fact of being directed towards “something” or of having “something” as its object (of representing “something”).

to our reality are manifested. In this sense, it appears that belief (in the sense of a habit of action that is exercised in a reality constructed by the norm) and the desire for action (which will itself be measured by the norm) are intentionally inscribed in the measuring tool that the norm forms.

The *disposition*, then, appears as what in the tool “disposes to act” and this with respect to the constitution of reality and for the benefit of the measurement of the correction of the action (in a classical way, intentionality seems to be the sign that accounts for the presence of a disposition). This intentionality of the disposition is assumed by the agents, because it offers an evolutionary advantage. What then “disposes” us to act is the intentional force of this disposition and the advantage that I derive from it in the construction of reality.

Finally, it should be noted that the norm that supports the provision is expressed in two ways:

- (i) a *linguistic modality* (classical among jurists, it is related to the presentation of the norm on the basis of a prescriptive meaning), and
- (ii) a *physical modality* that raises an ontological problem (i.e., referring to the actual presence of individual mental states or social states of affairs, which makes it possible to account for problems that are inherent in the causality of these states).

The intentionality of the normative disposition would, therefore, be the way in which it is consistent as an “interpretation scheme” or “action scheme” with the actions in the world. In this way, dispositions are “in law” the statements that can express or manifest a norm (they are manifested in the commandments – the public texts that are offered to interpretation – that are inscribed in positive law), whereas dispositions are philosophically the power that norms contain: what they dispose to do.

This research will then allow us, through the analysis of “dispositions”, to approach various (and delicate) legal questions: the nature of the norm (and the singular way in which it participates in the construction of our reality and our agreement with it<sup>5</sup>); the orientation of our behaviors with regard to the effects of discourse that it implies (or the reality of its presence); the typicality of the norms (as well as, the greater or lesser transparency that this one implies with regard to its reference)...<sup>6</sup>

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<sup>5</sup> On these issues, see also Pascal Richard (2017).

<sup>6</sup> Intentionality is logically related to the concept of referential opacity. In the framework of logical language, intentionality is presented under the aspects of intensionality (of meaning). Intensional statements seem to be characterized by this opacity (which stems from the difference between meaning and significance). In extensional approaches, there is no reference to an already present conceptual totality (an *a priori* concept that would be able to give coherence and understanding to the concept). It is the extension of the latter that will allow the development of the concept: the object of the reference will thus develop at the same time as the list inherent to the extension of the concept. This is the case for many legal concepts: administrative decisions, fundamental rights... With intensional statements, what is stated is a certain relationship to reality or a certain state of affairs. They are finally *dicta statements*. Indeed, they express the understanding of what they are about from a description (and under the yoke of the concept itself). In this sense, this concept (or this description of it) necessarily has an impact on the truth of the statements. This situation implies a referential opacity which testifies to the influence of the concept on the validity of the statements (the intensionality of the concept). What is important is not the reality “in itself”, but that which results from the semantics of the concept. The risk in this perspective is not to miss reality, but to use the wrong concept to apprehend it. This is a manifestation of the risk of confusing intensionality and intentionality with respect to reference. Two extensionally equivalent concepts are not intensionally equivalent (specifically in what Quine presents as intensional contexts – either because of metalinguistic contexts such as quotations or contexts allowing the use of intentional verbs such as believe, hope, etc., or modal contexts –, because they are not true of the same objects, unlike extensional contexts).

**2. Dispositions as Actuation of Intentional Systems**

It is possible, in a very classical way, to apprehend the consequences of certain *dispositifs* (of arrangements or systems) from various models. These allow either the prescription of certain behaviors, or anticipate the behaviors of operators. It is thus a question of norming behaviors. In this perspective, certain “things” (the “dispositions”: for us devices, arrangements or systems) would harbor a world of “threats and promises” (according to Goodman’s classic formula) which would weigh on individuals.<sup>7</sup> They would involve (or imply: this is part of the issue) a certain determinism as well as the presence (from an internal point of view that would be proper to the thing) of a “power”, or of a “capacity”. Our purpose will not be to create entities without real identities, but to understand the use and the possible function of this *dispositive*.<sup>8</sup> They allow to install a belief (which is, in this sense, only a disposition to react).<sup>9</sup> Traditionally they would manifest a property which would be intrinsic (and which would be affirmed in the form of an ordinary evidence<sup>10</sup>).

It is thus this “mysterious force” that one would find at work in “dispositions” and which would offer to attribute to things (but also to persons, to tools, or to beliefs<sup>11</sup>) powers, capacities and to deduce from them habits of action and possible behaviors.<sup>12</sup> This force is embodied in the legal domain in the famous and classic metaphor of the “force of law”. Various research, developed recently by eminent jurists, are now trying to break down the mode of existence of the norm in this way, and this not only in the law (“in law”), but also “in” the world. These works try to apprehend the various ways in which the norm *works* and operates on (and in) social reality. It is in accordance with this perspective that work is being developed on: nomotropic action or inferential modalities linked to the norm...<sup>13</sup> They try to apprehend the way in which the norm is in interaction with its implementation environment. Nomotropic acting as well as the analysis of inferential modalities can thus be enlightened from contemporary debates on dispositions, which concern attempts to reduce them to epistemic or semantic questions, or attempt to apprehend them from a certain degree of ontological commitment.<sup>14</sup> It would be possible to reduce dispositions either to statements or to physical states which would then be the physical basis of the disposition. This approach expresses in its own way the “force of law” and the mystery of the

7 “In addition to the observable properties and effective processes it undergoes, a thing is filled with threats and promises” (Goodman, 1955/1985, p. 60).

8 In a slightly different sense from that used by Michel Foucault (1994, pp. 299-300), for whom the *dispositif* signifies the presence of a heterogeneous set of discourses and institutions, decisions... The *dispositif* is the network that is generated between these elements.

9 On this question, see W. V. O. Quine & J. S. Ullian (1970/2021). In this perspective, believing is not an action, but a disposition to react. This disposition is like the charge of a battery that is likely to last a certain time. Belief is not so much a matter of its object as of the criteria it has at its disposal.

10 Hilarity would be, for example (to take up a classical illustration) the constitutive cause of laughter? This analysis is carried out in connection with the presence of *qualia* (intrinsic qualities) which would be, for some, the essential of a life that deserves, therefore, to be lived. The *qualia* are in this way complexes of dispositions: an idiosyncratic set of dispositions. A character in the fictional world of our hetero-phenomenology. It is an Aristotelian vision of the cause as power in things, whereas nowadays the cause is more generated by the categorical basis of the disposition (the physical structure from which it emerges). These ordinary evidences allow the fabrication of beliefs.

11 A dispositional conception of beliefs in the sense of note 8.

12 The capacity to perceive in a reality a certain intentionality proper to an intentional system? It seems that the duties of the “self” are distributed spatially and in time. The evolution has generated the human mind in such a way that we are able to apprehend the reasons of being of things and to appropriate them we feed ourselves with information. The social scene imposes to modify and to make evolve these. Where does the concern to behave according to one’s reasons come from? From education. We are only obliged to do what we are capable of.

13 We will only quote Lorenzo Passerini Glazel’s text (2012, ch. IV “Norme in disuso: agire nomotrofico e atrofizzazione di norme”, pp. 241ff.), that offers a perfect introduction to these issues.

14 The latter would be involved with regard to the reflections proper to the causality inherent in the provisions.

effectiveness<sup>15</sup> of the public word. A legal operator (or a political or administrative operator) will thus develop an action under the effect of what manifests itself to him: either as a cause (physical or mental), or under the authority of a reason,<sup>16</sup> or finally (and this is our hypothesis) under the yoke of a certain disposition inherent in what he “is” (and which drives him to act in this sense): one recognizes, for example, the disposition proper to the “statesman” to be able to “decide” in times of troubles.<sup>17</sup> The disposition embodies (and synthesizes) these problems and offers, through intentionality, which is its mark, a grid for explaining causal force. *The dispositions would be in this way the actuation of intentional systems.* However, the dispositions are becoming frequent again, as C. Tiercelin regularly observes (and partly thanks to her efforts): they are moving from the delicate status of *filles-mères* (teenage mothers) to the more respectable status of *mères célibataires* (unmarried mothers).<sup>18</sup> Now that they are frequentable again, they seem to open up new avenues. In these different analyses, it appears that “intentionality” (as an index of the presence of a disposition) clearly offers a way to understand the norm as well as its effects and its relations with dispositions.

- It is easy to observe that norms “intentionally” refer to dispositions. Intentionality is clearly a marker of the presence of dispositions. The norm (like the dispositional object) always has in it a reference to a manifestation that has not been realized: it points towards “something” that does not yet exist (according to the famous formula of the philosopher Armstrong); it manifests a propensity to be.
- The stated norm would thus be the expression (or actuation) of a disposition whose intentionality would be the mark. This intentionality is found in two theoretical legal models that are essential to our understanding of the norm.<sup>19</sup>

This intentionality appears, obviously, within the framework of Professor Paul Amselek’s work and his integration of norms in the field of metrology. We know that for him (in his famous distinction between norms and commands<sup>20</sup>) the norm is presented as a “tool” allowing

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15 The idea that the norm generates effects (through a disposition of its own – normativity) has been criticized by some authors for its simplistic presentation. For Kelsen, for example, effectiveness is not the predicate of the norm, but that of the concrete behavior that will be deduced from the norm, and this when a legal operator conforms to the norm (or to the representation that the operator has of the norm). This analysis is perfectly synthesized in the above-mentioned work by Di Lucia (2003) and in particular in chapter IX: “Norma in actu: efficacia senza adempimento” (pp. 183-186 specifically).

16 In the perspective of semantic holism, the knowledge of a concept implies the mastery of the inferential context of these concepts, i.e. the standard conditions of their application. The analysis of the conditions of the mastery of the concepts offers then to perceive the content of the concepts themselves.

17 The question of mental causality is manifested by means of the difficulty to accept jointly the three following theses: mental states are not physical states; mental states cause physical states; the thesis of the nomological and explanatory causal completeness of the domain of physical states. In order for these three theses to appear as contradictory, it is necessary to consider that an absence of regular overdetermination exists as a truth (if regular overdetermination exists, in fact, it is necessary to admit that the three theses can coexist, because the effects of mental causes are at the same time produced by physical causes).

18 See C. Tiercelin (2002, pp. 127-157): “For a long time, dispositions had a status as little respectable in philosophy as that which had, for centuries, the teenage mothers: associated to the obscurantism of occult qualities, powers, capacities, but also to the difficulties inherent to possibility, dispositions ended up disappearing from our ‘ontological furnishing’, and by belonging, like the concept of ‘cause’ or of absolute monarchy, to what Russell called these ‘relics of a bygone age’. Tolerable as ways of speaking, but certainly inadmissible, as autonomous ontological entities.”

19 On the analysis of the notion of norm and the very rich and numerous literature that focuses on this notion in a framework of philosophy of law, see the remarkable anthology, *Filosofie della norma* by G. Lorini & L. Passerini Glazel (2012).

20 “The etymology is very enlightening in this regard: the verb to command comes from the Latin expression *manum dare*, to put in hands, to give. To enact, to lay down, to establish rules, is to make them authoritatively applicable by

the measurement of what is possible for the individual. The norm is an illustration of the importance of this science of measurement that is metrology.<sup>21</sup>

It is also present in the work of Professor A. G. Conte and a certain logical and phenomenological approach. For the Italian philosopher, the declension of what can be understood as a norm is divided between what is of the order of the language (of the linguistic entities) and what is of the order of the state of affairs and of its intentional reception.

The possible similarities between the two analyses are obvious (even if it is necessary to maintain, naturally, a singularity to each one of its so specific thoughts).

- For the Italian jurist and philosopher, intentionality is declined under its two traditional forms (intention for the “deontic noem” and intension for the “deontic proposition”).
- For the French professor, the intentionality rests, commonly, in the idea of measure present in the benefit of the norm: the norm as object of measure of what it is possible to make grants to the legal operators this “metaphorical arch” susceptible to aim a report.

We know that the intention is classically presented in the following form: it is a matter of using this concept to account for the fact that “to think” (or to intend to think) is fully to think “about something” or to be “in a certain relation to a certain thing”. It is thus under the concept that the relation is elaborated. The classical reflections of E. Anscombe (1957/2002) are, in this respect, perfectly enlightening.

According to this presentation (which is non-trivial of intentionality) a “thing” manifests (or expresses) intentionality when it involves the “presentation” of another “thing”. This idea can be illustrated by means of a classic metaphor in this domain: that of the key and the lock. What intentionality expresses is thus the fact that it (through its aiming) involves a kind of “metaphorical” arch that aims at another object – this aiming-at object is the “intentional object”. It can, of course, be real or not.<sup>22</sup>

We understand that the reality that the norm aims at is then endowed with a double nature and that it hesitates between the form of the “action scheme” and that of the “interpretation scheme” (we find here the two aforementioned approaches to the dispositions and this in law and in philosophy). It is this function that will be used in the context of an intentional strategy.

#### **4. The Implementation of an Intentional Strategy for the Benefit of Norms**

It seems possible to us, in accordance with the work of Daniel Dennett, to develop within the framework of the law a “strategy of the interpreter” that seems particularly enlightening with regard to the functioning and causal effectiveness of the “intentional states” that are attached to normative dispositions (and which, in the framework of an intensional approach, expresses a referential opacity).

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the interested parties by ‘intimating’ them to them, by passing them on so that they conform their conduct to them” Amselek (2020, “Le droit est-il une réalité?”, p. 151).

21 Amselek (2017, p. 34) writes: “What is the purpose of rules in general? What is the common denominator of the services rendered by all rules of all kinds? Their common function is to serve as standards, as *measurements* [...]. Rules thus enter – should enter – the field of metrology or theory of measurement, although this is in practice almost exclusively centred on the material tools of measurement.”

22 For a luminous analysis of these notions, see D. Dennett (1997/1998). This approach was also perfectly highlighted by E. Anscombe in 1965 (1965/2002).

This reflection is part of the very rich debates that are present in contemporary philosophy of mind.<sup>23</sup> This approach seems to us to have a heuristic scope with regard to legal norms and normativity. Indeed, it seems to be able to be invoked in order to support certain analyses specific to the perception of the norm as a tool as well as of normativity or nomotropy. L. Passerini Glazel, in the presentation of a chapter dedicated to the way norms act, had detailed the various paradigms likely to frame this debate in the legal domain. On this occasion, he had presented the work of Leon Petrażycki (1909/2012) and observed the particularism of this thought which apprehends the norms as products of emotional projections. Petrażycki states:

The statements and other normative facts represent for the legal psyche the basis for the production, by various spiritual operations, of the most diverse normative judgments and their corresponding projections: the norms (1909/2012, p. 263).

It is this “information” about the predictable nature of these projections that Dennett will integrate into his thinking. These productions make it possible to assume a certain continuity in human behavior and to deduce from this information relevant strategies for social development. It is a question of intentionally incorporating the representation of a certain thing. However, this incorporation must integrate a certain utility.

For Dennett<sup>24</sup> the mind does not really have a conscious life, but reactive dispositional properties. There is no real reflexive consciousness accounting for an intentional will to aim at a reality, but an unconscious information. Moreover, these dispositions do not have an intrinsic reality, but exist only through shared social use.

It is worth mentioning, first of all, that Dennett expresses in the field of the philosophy of mind a rather original position (and very criticized by some). Indeed, he adheres not only to a critique of Cartesian consciousness (what he presents as the “Cartesian theater”), but also to a form of realism as well as to an extrinsic conception of intentionality (whereas generally realists adopt a position towards intentionality that is more intrinsic). It is partly this last point that makes Dennett’s work original.

In a synthetic way, Dennett’s thought is the following: it is strategic for man (as a rational animal) to attribute beliefs to things. Attributing a belief to a thing turns it into an intentional system. We will thus consider that it has “beliefs” and “desires” and that on this basis its functioning is predictable, and this quickly and without too many defects.

Dennett then focuses on a “common sense” approach to intentionality (understanding the responses manifested in behaviors as intentional actions or behaviors that are based on beliefs and desires).<sup>25</sup>

An “intentional system” is thus developed, which offers Dennett the means to be able to “think” how individuals (but also things) “think” about a thing.

This transformation of raw data of acoustic pressure waves, lip-movements, button-pressings and such into expressions of belief requires adopting the intentional stance. It requires us to treat the subjects as if they were believers and desirers capable of framing and executing speech acts with intended meanings (2005/2012, p. 69).

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23 For a general analysis of these questions, see D. Fissette & P. Poirier, *Philosophie de l'esprit: état des lieux* (2000).

24 The works of D. C. Dennett published in France are: *Théorie évolutionniste de la liberté* (2003/2004); *La diversité des esprits: une approche de la conscience* (1997/1998); *La conscience expliquée* (1992/1993); *La stratégie de l'interprète: Le sens commun et l'univers quotidien* (1987/1990); *De beaux rêves: Obstacles philosophiques à une science de la conscience* (2005/2012).

25 For an analysis of the intentionality in its relations with the artifacts, see M. Ricciardi (2003).

This “intentional system” makes it possible to attribute a “mind”<sup>26</sup> to things (and this as long as this attribution seems to be an efficient way to allow the prediction of a behavior). Things will be disposed to beliefs and desires.

The attribution of a disposition to norms (i.e. normativity), in the same sense, would allow for the implementation of a specific “intentional system” whose function would be constructed from “desires” and “beliefs” that would be specific to norms.

The intention attributed to the norm would then be to stick to reality and to normalize it: to make regularities appear for the benefit of men who would perceive this intentional system. The norm would have beliefs and desires: the belief in its necessity and the desire to impact reality (through a creation or a conformation of action). Not knowing the social laws that would necessarily be imposed, I adopt (it is the interpreter of the belief carried by the norm: the legal operator) then an effective strategic point of view. “I order” the norm to implement a force (a disposition) allowing to transform reality and I notice that globally it manages to accomplish this function.<sup>27</sup>

This capacity to keep the thing in the sights of its intentionality implies, however, adjustments in order to succeed, appropriately, in maintaining contact (and thus the development of legal concepts by extension due to the referential opacity of intensional conceptions). This phenomenon makes explicit the margin that the normative tool offers in our measurement of reality (it is manifested in the legal language by the use of certain terms like: “standards”, “yardsticks”, “rules”).

These adjustments are manifested in the attention that is paid to the world, but also, naturally, in the planning of our actions in the world. Legal norms are thus doubly adjusted to the world, as Lorenzo Passerini Glazel aptly observes.

The function attributed to norms (understood as an intentional system) is thus to allow a certain production of the future. In this respect, it appears that human beings are always ultimately confronted with two strategies, according to Dennett: either they lock themselves into a castle that allows for the defense of what they “are”; or they develop methods, stratagems, in order to protect themselves against the obstacles that they will inevitably encounter.<sup>28</sup> One recognizes here the two approaches that are traditionally adopted with regard to the law itself: either it appears as guaranteeing the maintenance of a given order or it is apprehended as an instrument to make a society evolve.

With the norms understood as a “dispositional system” it would be a matter of letting “the world warn us” (Dennett, 1992/1993, p. 225).

These systems enhance our ability to survive.<sup>29</sup> Legal norms that allow for the expectation that social behaviors will be measured by specific standards or yardsticks clearly offer an advantage in the regulation of human relationships.

In the context of our “form of life”<sup>30</sup> dispositions and their intentional properties are real,

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26 This is the purpose of the book: *La diversité des esprits* (Dennett, 1997/1998).

27 It is not the object of a perfect success simply of the result of the success notice of a regularity.

28 Thus, it appears that with regard to the selection process of evolution, the devices that will become anchored, in our nature, are those that allow us to catch (or capture) regularities and that, as such, function as often as possible (never perfectly, but sufficiently so that they appear as a benefit).

29 For example: to take up an illustration of Dennett’s that seems to us particularly clear, the axis of symmetry that is inherent to the gaze offers the possibility of realizing that one is being contemplated, which is practical for facilitating survival in a world populated by predators. This symmetry also appears probably in the order of the thought with the necessity to categorize the thought as well as in the framework of the logic: it is very present in the analyses of A. G. Conte.

30 The form of life is, according to the beautiful analysis of Professor Amedeo G. Conte, “a set of constitutive rules, of rules that constitute the sense of it and the sense in it” (1986/1995, p. 317).

but in an extrinsic way. They allow, from the perspective of ordinary social physics, to pursue regularities. The observer discerns *patterns* and will develop a strategy (and, indeed, this strategy clearly works on a day-to-day basis in the best possible way).

This analysis is, in our opinion, likely to echo the reflections of the Italian jurist and philosopher Amedeo G. Conte in his work on validity or adeontic regularity (1990/2019).<sup>31</sup> He indicated in the works developed on this theme that the distinction between deontic and adeontic regularity could be enlightened by the distinction between *following* a rule and *pursuing* a regularity (which is deontically neutral). The rule (unlike regularity) is never “one” (it is never necessarily identical to itself). The rule leads us into “gardens that fork” to use the formula of the Argentinian poet J. L. Borges: the real sometimes forks the rule and generates complexities.

It is this specificity of the rule that will however allow an evolution and a maintenance of the continuity of our actions in the social game. It is possible to apprehend these configurations from the outside (for the observer) by affirming that they express an intentional point of view. We are thus able to modify the world: we can then follow something “on the track” and benefit from it in order to dispose ourselves to act.

We transfer into the world certain marks as well as clues and data to be interpreted as accounting for the world’s intention towards us... We thus attribute to it a certain meaning. This is perhaps the greatest interest of language for human development. This interest is found in law, which allows us to inscribe ourselves in time and to give meaning to the promise that law reveals to us.

Behind this reality of the social manufacture by the intricacy of diverse social subsystems – informed by each other, but closed on the singularity of what they manufacture – there is then no real in itself that it would be possible to illuminate or reflect. In this perspective, the real is only the gap between the social subsystems. The legal system thus secures certain social expectations which it mediates in its own order. This mediation will always be incomplete, and the rest that is abandoned in the act of transposition will always be perceived by the subsystem in question as a reason for it (an *a posteriori* justification).

The reflections that focus on the intentionality of dispositions and on dispositions as an expression of intentionality testify to this function of law, in which the delicate reduction, on the one hand, of our capacity to norm a reality (which is only elaborated in the agreement that ordinarily develops it and which is therefore necessarily in excess) and, on the other hand, the construction of a natural function that offers, through the intentional systems developed in law, the evolutionary advantage of allowing us to “see further”, are attempted.

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31 The Italian philosopher initially developed this research in an old analysis entitled *Codici deontici* presented to the III Congress of the Italian Association of Semiotic Studies in 1975 (Conte 1976/1989). For a more recent analysis, see Conte (2001).



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# THE SEMANTIC CONCEPTION OF EFFICACY AND CONSTITUTIVE RULES: MAPPING A TOUGH RELATIONSHIP<sup>1</sup>

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## abstract

*This paper attempts to answer whether the property of “efficacy” can be attributed to constitutive rules. In particular, according to Di Lucia, I will point out some problems that the “semantic conception of efficacy” has concerning constitutive and regulative rules. Then, the main goal of the paper will be to reflect on the possibility of the efficacy of constitutive rules by means of a complex case that the semantic conception seems to disregard: The case of the cheater. Does the action of the cheater show the inefficacy of constitutive rules? Does she play the game while breaking the rule? Can the semantic conception of efficacy explain this situation, or do we need a more flexible concept of efficacy that takes nomotropism into account? These are some of the questions I will try to answer.*

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## keywords

*efficacy, constitutive rules, nomotropism, semantic conception of efficacy, cheating*

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**1. Introduction:  
The “Semantic  
Conception of  
Efficacy” (SCE)  
and Constitutive  
Rules**

According to Paolo Di Lucia’s characterization (2010, pp. 84-86), the “semantic conception of efficacy” (SCE) adapts Tarski’s theory of truth as correspondence to the efficacy of norms.<sup>1</sup> As a result, this conception holds that “(j)ust as a statement ‘p’ is true or false depending on whether it corresponds or not to a state-of-affairs *p*, a norm *Op* is efficacious depending on whether it corresponds or not to a state-of-affairs *p*” (Di Lucia, *forthcoming*). Thus, a norm is said to be efficacious if it corresponds to an agent’s actual behaviour *p*, while it is said to be inefficacious if it does not.<sup>2</sup>

The property of efficacy has been widely studied in relation with prescriptions or commands. However, there is another type of norms or rules<sup>3</sup> which also deserves to be considered: constitutive rules.

John Searle presented his classic distinction between constitutive and regulative rules in his first book *Speech Acts: an essay in the philosophy of language* (1969), focusing on three main aspects which I have called (Lojo, 2022): the argument from the referred object, the argument from syntax, and the argument from rule breaking.<sup>4</sup> Here, I will focus on the last argument. The rule-breaking argument shows that only regulative rules can be broken. An agent can easily break a regulative rule by simply acting against the prescribed behaviour. But how can I checkmate without moving the pieces on the board in such a way that the king is threatened and cannot defend itself? It seems logically impossible, “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” (Searle, 1969, p. 41). Thus, agents can fulfil or break a regulative rule, while they can only fulfil the constitutive rule, or not being playing the game or interacting with an institution.

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1 I will use the noun “efficacy” and the adjective “efficacious” because I want to analyse how this property is attributed to certain norms. However, some other authors prefer the use of the terms “effectiveness” and “effective”, which, in contrast, is more commonly used for normative systems. In this case, I will follow Burazin (2019) and make no distinction between the two options.

2 This concept of efficacy is also followed by various legal theorists, see for example: Moreso and Navarro (1996, p. 120), Hierro (2003, pp. 75-76) or Vilajosana (2010, p. 180). In fact, Di Lucia attributes this conception to Kelsen (1945).

3 In the rest of the paper, I will use the terms norm and rule interchangeably.

4 In general, Searle is the main reference talking about constitutive rules. However, it is recognized that the origins of the concept are from earlier in time, for instance Znamierowski (1924) and Rawls (1955), and they have been deeply studied by other areas apart from social ontology, like legal theory. See Conte (1986/1995; 1988), Roversi (2007) or Marmor (2023).

The main goal of this paper is to reflect on the possibility of the efficacy of constitutive rules by means of a complex case that the semantic conception seems to leave aside: the action of the cheater. Does the action of the cheater show the inefficacy of constitutive rules? Is she playing the game while breaking the rule? Can SCE explain this situation, or do we need a more flexible concept of efficacy that takes *nomotropism* into account?

Imagine that I am a chess player and I decide that my priority is to defend my king, and so I exchange the squares of my rook and king, following the rules of castling. After that, the game continues, and the other chess player makes her moves. After a few moves, however, my colleague realises that I have overlooked an important condition: At that moment, I had already moved my rook and thus “lost” my right to castling as stipulated by the rules of FIDE (Art. 3.8.b.). She accuses me of cheating, but she wants to continue the game. What can we do in this situation?

According to the classic rule-breaking argument, one possible answer is to understand that “[t]o fail to comply with a constitutive rule is simply to fail to engage in the activity subject to that rule” (Marsili, 2019, p. 4). Then, the main consequence of this situation is that I neither castled nor defended my king throughout the game. I will call this approach “the orthodox account”.<sup>5</sup>

However, it seems that at least in the moves before my colleague noticed the mistake, my king was defended by my rook.<sup>6</sup>

An alternative answer was offered by Williamson.<sup>7</sup> Based on his concept of the constitutive rule of assertion, he states that “a rule will count as constitutive of an act only if it is essential to that act: necessarily, the rule governs every performance of the act” (Williamson, 2000, p. 239), Williamson argues that the unique necessary condition is the normative guidance of the rule. Consequently, “when one breaks a rule of a game, one does not thereby cease to be playing that game” (Williamson, 2000, p. 240). That is, false assertions are still assertions: “failing to satisfy the rule involves being liable to criticism, rather than not asserting” (Marsili, 2019, p. 5). The only caveat Williamson points out is that “some sensitivity to the difference -in both oneself and others- between conforming to the rule and breaking it presumably is a necessary condition of playing the game” (2000, p. 240).

With the aim of developing this last idea, García-Carpintero (2021) distinguishes between generating *abuses* or *misfires*, according to the Austinian terminology, while playing a game. Only when a player, like a spoilsport, commits a *misfire*, the activity is no longer a chess game. García-Carpintero suggests evaluating the intentional attitudes of the players to be rationally committed with the rules as a distinct criterion between *abuses* and *misfires*. Thus, the behaviour of spoilsports is incompatible with *being answerable* to the norms as a consequence of his potential game-termination: they want to ruin the game.<sup>8</sup>

## 2. The Rule-Breaking Argument Under Examination

a. *The Case of the Cheater*

b. *The Orthodox Account*

c. *Other Approaches: Williamson and García-Carpintero*

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5 According to Marsili (2019).

6 As García-Carpintero said, this is one of the obvious failures of the descriptive account of constitutive rules (2021, p. 14).

7 Williamson develops an original account of constitutive rules and attempts to answer what the rule of assertion is. His proposal has sparked a lively philosophical debate, especially in the field of philosophy of language, but not only. See: García-Carpintero (2021), Kelp and Simion (2019), Marsili (2019) or Moreso (2022).

8 In a very similar sense, von Wright affirms “Of a person who does not play in accordance with the rules of chess, we would say either that he plays *incorrectly* or that he does not play *chess*. We would say the first, e.g., if he wanted to follow the rules but did not know or understand what they demanded of him. Or we would say it if he is trying to cheat his opponent. We would say the second, e.g., if he did not care about following the rules, or consciously and

The case of the cheater is a clear example of an *abuse*: I have broken a constitutive rule of the game about castling, but I maintain my intentional commitment to being answerable to constitutive rules. I may be an inept player or a tactical rule-breaker, which would affect my motives and compatibility with the values of the game, but my action is still compatible with “rationally having the intention of being answerable to the norms and being committed to obeying them” (García-Carpintero, 2021, p. 22).

**3. Why the Semantic Conception is Not Sufficient**

In the preceding sections I have outlined the main elements that will form the core of my considerations: What is SCE, what are constitutive rules, and how is the case of the cheater explained by the orthodox account and by alternative accounts. In this section, I will explore what the limits of SCE are and, in particular, whether it can be applied to constitutive rules and to the case of the cheater.

*a. Limits of the “Correspondence” Between Norm and Action*

Di Lucia (2010, forthcoming) criticises SCE on several grounds: Both its presuppositions and its categorization turn the efficacy into a too *narrow* property.<sup>9</sup> First, because of its presuppositions (reducing the normative to the deontic, and the deontic to the obligatory) and second, because of its limits (the correspondence between norm and behaviour is a necessary and sufficient condition for norms to be efficacious). Therefore, it excludes kinds of normativity that are not deontic and considers the obligatory/forbidden as the unique deontic category. For instance, it excludes abrogative or permissive norms.

Moreover, the concept of “correspondence” is also too narrow: It considers the norm to be efficacious only if the behaviour *p* corresponds exactly to the content of the norm.<sup>10</sup> Di Lucia (forthcoming) presents several examples where certain behaviours occur because of norms but are not in a strict correspondence relationship, such as the professor who does not stand by the faculty council in order not to reach the quorum, or the act of eating on Yom Kippur (the holy day of atonement for which fasting is the most important rule) by anarchist and social democratic Jews: an act that is only understandable against the background of the rules of Yom Kippur.<sup>11</sup> Another good example of cases that are not considered under this conception is the idea of “nomotropic behaviour” or *nomotropism* developed by Conte (2001), which refers to subjects who are oriented *according with* or *in-function-of* a norm (or a normative order).<sup>12</sup>

Moreso and Navarro (1997) have also considered what states of affairs count as evidence of the efficacy of a legal norm. In their paper, they propose two concepts of applicability (internal and external) that constrain the conceptual network of norm efficacy. They conclude that “‘N is effective’ is neither true nor false when N is not applicable” (1997, p. 211). Thus, they answer the question suggesting that “a state of affairs is relevant to the effectiveness of a norm if and only if it is regulated by its spheres of validity [personal, material, spatial, and temporal]” (1997, p. 216).<sup>13</sup> However, as they also recognised, the problem of asymmetry between the role

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consistently played according to different rules” (1963, p. 5).

9 The justification for this narrowness stems from the idea of using “efficacy” for imperatives as an analogy to “truth” for propositions and establishing the relation between language and the world through the parameter of “correspondence”.

10 There is one sense in which the conception is too wide: it also includes cases of coincidence where conformity occurs not because the agent follows the rules, but for some other, completely independent reason. On the difference between fulfilment/compliance and coincidence, see Vilajosana (2010, p. 180) and Hierro (2003, pp. 75-83).

11 The example is developed by Cover (1983, p. 8).

12 Due to that, Di Lucia concludes that another, more comprehensible concept of efficacy is preferable, such as efficacy as impactfulness (from norm to action), which includes various cases of nomotropic behaviour.

13 That is, when it is internally applicable.

of personal and material sphere of validity remains: Only the complementary class of actions of the material sphere is relevant for inefficacy. According to von Wright (1996), they note that the asymmetry “seems to stem from the fact that it makes sense to attribute effectiveness or ineffectiveness to a conditional norm only when its antecedent is true” (1997, p. 217). As a result, if a mother orders to her son “if you go out, you should take your coat”, and the son decides not to go out because he cannot find the coat, we cannot consider the order as efficacious despite our intuition, because the antecedent is not true during the action.<sup>14</sup>

The above features of SCE complicate the possibility of applying it to constitutive rules.<sup>15</sup> First of all, constitutive rules do not necessarily contain a deontic clause that provides the possibility to act against the behaviour prescribed to determine the inefficacy of norms. We can, however, conform our behaviour to the one described in the norm to achieve the appropriate institutional outcome. Thus, when an agent fails to fulfil a constitutive rule: What happens then? It may not be a situation of disobeying the rule, but it seems that it could be a situation of violation of the rule.

*b. Is It Possible to Apply SCE to Constitutive Rules?*

Some authors have argued that correspondence between norm and behaviour is necessary for constitutive rules: if the behaviour does not fulfil the norm, the normative consequences would simply not be achieved.<sup>16</sup> For example, in the case of the rule that constitutes marriage, the index of correspondence is always equal to one, since there is no marriage that does not fulfil the conditions set out in its constitutive rules (Hierro, 2003, pp. 81-82).<sup>17</sup> This possibility reminds us of the orthodox account we saw earlier. Basically, the orthodox account states that we cannot play the game of chess if we break some of its (constitutive) rules. That is, the index of correspondence is equal to one: you play chess (and satisfy all its rules) or you play some other game.

*i. The Orthodox Account*

As we have seen, Williamson’s idea of a constitutive rule of assertion, which García-Carpintero also follows, consists in the formula “(The C Rule) One must: assert  $p$  only if  $p$  has C”, where “[t]he rule unconditionally forbids this combination: one asserts  $p$  when  $p$  lacks C. The combination is possible, otherwise it would be pointless to forbid it” (Williamson, 2000, p. 241). His proposal thus allows for the possibility that “[w]hen one breaks a rule of game, one does not thereby cease to be playing that game” (idem) and that the cheater was thus playing the game while committing an *abuse*.<sup>18</sup> So let us take our example: when I switched the squares of my rook and king, I violated the rules of castling, but I still had the intention of being answerable to the norms. The moment

*ii. The Account of Williamson and García-Carpintero*

<sup>14</sup> Moreso and Navarro (1996, pp. 120; 134-135) use this example from Dummett to illustrate the difficulties in determining the relevant actions in this other earlier work.

<sup>15</sup> For example, as Moreso and Navarro (1997, pp. 214-215) affirm, if we consider the rule of recognition as a constitutive rule, the fact that the rule of recognition has no external applicability (there is no other norm in a given legal system that prescribes its application) makes it neither efficacious nor inefficacious (also, the rule of recognition can neither be obeyed nor disobeyed).

<sup>16</sup> See González Lagier (1993, p. 268) or Hierro (2003, p. 81).

<sup>17</sup> Hierro (2003, p. 78) suggests measuring the gradual character of efficacy as correspondence (from 0 to 1) through the formula: Index of efficacy = N. behaviours with conformity / (N. individuals affected · N. times applied). Apart from the problems of this formula, which Hierro and others also point out (see Vilajosana, 2010, p. 193), it is useful to see the necessity in the case of constitutive rules: Their efficacy is absolute because there is no possible behaviour without conformity.

<sup>18</sup> Due to the fact that cheating is still compatible with “rationally having the intention of being answerable to the norms and being committed to obeying them” (García-Carpintero, 2021, p. 22).

my colleague noticed the mistake, I realised that I had made an *incorrect* castling. In this case, according to Williamson, I broke the rule, and my behaviour did not conform to the norm, but I was still governed by the constitutive rules of chess. Then the application of SCE would admit the inefficacy of the castling norm in this particular situation, but also the general acceptance of the rules of chess due to the commitment of the cheater and the correspondence between norms and behaviour through the rest of the moves. Only a misfire would show a complete inefficacy of the chess rules.<sup>19</sup>

iii. The Possible Answer of Searle

So far, we have seen an argument against the possibility of using SCE to explain constitutive rules, namely the one followed by the orthodox account, and an argument in favour of this possibility followed by the alternative account of constitutive rules. I will now develop what answer Searle might give to this question.

The orthodox account is based on the traditional distinction between constitutive and regulative rules that Searle develops in his first book (1969). However, in his books on social ontology (1995, 2010), the author deepens his notion of constitutive rules and develops a more complex theory based on collective intentionality. This change is important for the possible answer Searle would give to the application of SCE to constitutive rules.

SCE proposes to examine how the world is in order to attribute efficacy or inefficacy to norms. Specifically, how are certain aspects of the world that correspond to the spheres of validity (personal, material, spatial, and temporal) of the norm. Therefore, we can claim that for SCE, the relevant direction of fit is mind-to-world.<sup>20</sup>

However, Searle considers that constitutive rules represent the structure of collective intentionality when it assigns and maintains a status function thanks to collective acceptance (1995, pp. 113-114). And collective intentionality has a double and self-referential direction of fit (2010, pp. 29; 34-35): on the one hand, it depends on 1) I/we accomplish the content of our mental state (direction world→mind) and, on the other hand, that 2) the world coincides with the content of our mental state (direction mind→world). For instance, if we have the collective intentionality: These green papers count as money, then we need that 1) everyone uses the green papers as a means of exchange, and 2) the green papers have been recognized as money, in order to satisfy the mental state and achieve that the constitutive rule has been applied. As a result, SCE only considers the variable of mind→world, and even if this aspect is crucial for the possibility that the institutional outcome is achieved, the condition world→mind must also be fulfilled. This is the case with marriage: the sentence “I declare you wife and husband” from the mayor counts us as being married if we act as if we are now married (direction world→mind), and if the world is like most of the people recognises or accepts our new status (direction mind→world). However, we can not only hardly consider the constitutive rule efficacious, if the direction of fit world→mind is not satisfied, but also it complicates the possibility that the direction of fit mind→world could be satisfied due to its self-referentiality.<sup>21,22</sup>

19 With a similar intuition, Conte asks, “how does the behaviour of a cheater differ from the behaviour of someone who acts in a way that does not conform to a regulative rule?” (1986/1995, p. 334). Conte recognises that, on the one hand, cheating is possible and conceivable only during the game (following the general rules of the game), but on the other hand, the action of the cheater does not correspond to the action included in one rule (*idem*).

20 I.e., what are the conditions to adequate the propositional content to the reality.

21 To achieve success of fit, the world is thereby altered to fit the propositional content by representing the world as being so altered.

22 Of course, anyone can go to the courts to seek legal recognition of our marriage so to have access to all the legal rights and duties that go with it. However, I am pointing out the social dimension and consequences of not acting as having the new status, and how that can affect the satisfaction of the second direction of fit (e.g., having anyone

Under these circumstances, I do not think it is possible to apply SCE to Searle's concept of constitutive rules, because it ignores a very important aspect of them.

Be that as it may, there are reasons to explore other conceptions of efficacy that may be more appropriate to explain this property of constitutive rules.

There is an elementary intuition about institutions and efficacy: if we have constitutive rules that generate institutions, but no one follows or recognises the institution, then constitutive rules seem to have been inefficacious in some sense. The conception of efficacy as success, developed by Hierro (2003, pp. 82;160) and followed by Vilajosana (2010, p. 195), attempts to provide an answer to this intuition by analysing the instrumental capacity of norms to give rise to the appropriate state-of-affairs.

Focusing on the case of the cheater, the proposal of efficacy as success would admit that the constitutive rules of chess have reached the appropriate state-of-affairs (the game has evolved according to the rules), so they have been efficacious. Even in the case of the constitutive rule of castling, it was efficacious: I made a mistake, by not respecting one of its main conditions (not to castle when the king or rook has already moved), but when my colleague realised this, we both recognised the mistake (the wrongness of my action) and that I must bear the consequences: According to the rules of FIDE "the position immediately before the irregularity shall be reinstated" (Art.7.4.a).<sup>23</sup>

This conception is also consistent with the double and self-referential directions of fit of the constitutive rules indicated by Searle: it includes the general intention to pursue the new state-of-affairs of the constitutive rules (direction world→mind), and also the recognition of the new state-of-affairs by the community (direction mind→world). That is, we need the general intention to follow the rules, and the general recognition of what does it mean.<sup>24</sup>

Di Lucia (2010) proposes the conception of efficacy as impactfulness as an alternative to SCE:<sup>25</sup> a norm has efficacy when behaviour is developed directly or indirectly because of the norm. This conception allows him to include all cases of *nomotropism*, i.e., all the attitudes of the subjects that act in function of a norm but not necessarily acts in accordance with the norm (Conte, 2001, p. 910), and to evaluate norms as efficacious or inefficacious accordingly. Following one of the examples seen, this conception would consider the norms of Yon Kippur as efficacious when the anarchist Jews ate publicly.

In the case of the cheater, this conception also considers the rules of chess and castling efficacious: the act of cheating is conceivable only on the basis of these rules, and their efficacy

#### 4. Alternative Positions: How Can We Explain the Efficacy of the Constitutive Rules?

a. *Efficacy as Success*

b. *Efficacy as Impactfulness*

in town recognize our marriage as a "real" marriage, apart from what the judge says; for instance, not be invited to Christmas dinner, acknowledgment as heirs...).

23 Someone might say that committing a mistake is different from cheating. From an external perspective, both have committed the same action, but from an internal perspective, only the second has acted knowing that it is a violation of the castling rule. In the case of the cheater described above, this point is not clarified, but, according to García-Carpintero, although the motives of the cheater and the inept player are different, the central aspect is *rationality* having the intention of being answerable to the norms. For this reason, it is fundamental to know whether the cheater or the inept player will eventually apply the FIDE's art.7.4.a.

24 That it is to say, the conception of efficacy as success solves one of the main problems of the semantic conception of efficacy to evaluate constitutive rules: not only the behaviour matters, but also the attitude.

25 Originally, the term used by Di Lucia (2002) is "*efficacia come operanza*", translated into Spanish (2010) as "*eficacia como operación*". However, I will follow Fittipaldi's convincing suggestion here and translate it as "impactfulness", as the English term is closer to *praxeotropismo* (the complementary idea of *nomotropismo*: *nomotropico* is a predicate for behaviours, while *praxeotropico* is a predicate for norms). See Fittipaldi (2017) for a historical reconstruction of the use of the term by different authors.



is proved by my behaviour when I tried to defend my king while playing the game (and fulfilling the other rules).

Before concluding my reflections, a clarification is necessary: we can distinguish this conception from the previous one. As Hernandez Marín (1989, p. 302) points out, efficacy or inefficacy is a property of norms while fulfilment or unfulfilment is a relation between the agent and the norm. In the conception of efficacy as impactfulness fulfilment includes all possible behaviours in which the norm has shaped the background of the action, while in the conception of efficacy as success, fulfilment requires certain normative attitudes of intention and recognition or acceptance by the agent and/or the community. Consequently, only this last conception requires an acknowledgment of the institution.

## 5. Conclusions

In summary, in the first two sections I have presented the SCE, the constitutive rules, and the central example that has guided the reflections: the case of the cheater. I have also presented the orthodox account and the alternative account that dispute the interpretation of this case. In section three, I then explored where the general limits of SCE lie, and in particular the positions that arise when it is applied to constitutive rules: the orthodox account that denies this possibility, the alternative account that admits it, and Searle's position. Finally, I have proposed to pursue two other conceptions of efficacy that have more explanatory power to illustrate the case of constitutive rules.

Several conclusions could be drawn. First, we have seen in several examples that the limits of SCE are different when applied to regulative rules (or commands) or to constitutive rules: For example, the coat's command leads to inaction to avoid unfulfillment while the case of the cheater shows an action that unfulfills one rule while fulfilling the others. In general, however, I have described it as a too narrow conception: In both cases, SCE leaves aside actions that were produced because of the norm but not in a strict relationship of "correspondence".

Second, a coincidence between the behaviour and the norm is problematic for SCE and could be considered a "false positive". However, this is not a problem for the other conceptions seen: merely "acting in accordance with" by the rest of the community is a sufficient condition for efficacy as success; and similarly, acting within the framework without knowing it is sufficient for efficacy as impactfulness.

Finally, based on the different positions examined, it seems plausible to conclude that the possibility of applying SCE to constitutive rules depends mainly on the conception of constitutive rules managed. For example, the orthodox account, which conceives constitutive rules as definitions or analytic truths (Searle, 1969, p. 34), and which denies the possibility of breaking a constitutive rule and still playing the game, holds that SCE is inapplicable because correspondence is necessary: if the behaviour does not fulfil the norm, the normative consequences would simply not be achieved.<sup>26</sup> In contrast, the alternative account of Williamson and García-Carpintero admits the possibility of applying SCE to constitutive rules: Their proposal allows for the possibility that the cheater acts and still plays the game, and holds that she has only committed an *abuse*, since the only necessary condition is the normative guidance of the rule. Consequently, SCE attributes inefficacy to the castling rule because there is no correspondence, but also efficacy with respect to the rules of chess. Lastly, the conception that constitutive rules are intentionally collective mental states with normative attitudes does not allow for the applicability of SCE because of the double and self-referential conditions of satisfaction of constitutive rules. This option requires a more

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<sup>26</sup> It seems that the orthodox account directly refuses the possibility that constitutive rules have the property of efficacy.

comprehensive conception of efficacy, as proposed in the last section: efficacy as success and efficacy as impactfulness.

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# NORMATIVITY, TRUTH, VALIDITY AND EFFECTIVENESS. REMARKS STARTING FROM THE HORIZON OF THE “COMMON SENSE”

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## *abstract*

*The essay focuses on the rethinking of the conceptual circle normativity-truth-validity as regards its projection on the theory of law. Starting from the perspective of the “law in action”, that is to say by considering the experience/behaviour of the “common man”, the classical distinction between truth-validity can be rediscussed. This perspective is based on the concept of “common sense”: it is a very complex dimension composed by different strata and entails a new meditation on the pair “deontic-psychological” also in light of some Edmund Husserl’s clues. Accordingly, it is possible to grasp the pair truth-validity “in action” (i.e. within the common legal experience), in order to propose some “open” conclusions concerning the dimensions of law as well as the legal theory.*

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## *keywords*

*truth, validity, common sense, effectiveness*

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## 1. A Synthetic Overview

This contribution aims at providing arguments for the rediscussion of the logical and normative pair truth-validity, particularly in light of the rethinking of the dimension related to the “effectiveness” and starting from the idea of “common sense”.

In detail, the proposal relies on five steps.

Firstly, the “classical” distinction about the concepts of truth and validity in a normative perspective will be preliminarily discussed. Accordingly, the exposition of the fundamental thesis will be provided: it moves both from a particular pattern of “law in action” and from the category of “common sense” wherein the latter is considered as the horizon, or the theoretical condition, of the former.

Secondly, an attempt for clarifying the dimension of the “common sense” as well as of some related questions will be proposed, especially in order to highlight its intensional and extensional dimension.

Thirdly, in this way the consideration of some clues provided by Husserl’s distinction between “deontic” and “psychological” level, including its possible rediscussion, seems very useful for rethinking the normative circle truth-validity-effectiveness.

At a fourth level, it will be necessary to draw a short analysis of some aspects underlying the pair truth-validity “in action”, with particular regard to the legal experience.

Finally, the essay will focus on the proposal of some conclusions. They are to be understood as “open” questions concerning a new conceptualization of the nexus among law, truth, validity, effectiveness and behaviour.

To sum up. The contribution tries to emphasize the necessity to rediscuss the normative pair validity-truth, which involves a particular semiotics and semantics (according to the trichotomy elaborated by Charles Morris, 1938) for highlighting the pragmatic dimension of law. In other words, the paper contains a proposal of a new conceptual horizon, which is rooted in a sort of combination of semiotics and pragmatics.

## 2. “Truth”-“Validity”: A Problematic Distinction

The distinction among the concepts of “truth” and “validity”, as well as their problematic relation and connection with the dimension of the “(legal) normativity”, belongs to the traditional theory of law. As it is well known, many authors (not only Kelsen, 1934 and his epigones) have paid great attention in order to distinguish the aforementioned levels.

By tracing a preliminary distinction, and starting from the idea that patterns of truth have been understood as intertwined with patterns of “validity”, we can consider the two points in a distinct manner: truth and validity.

As regards the idea of truth, in a non-exhaustive manner some models are to be considered. They seem very useful both in order to underline the progressive ambiguity of the concept of truth and for highlighting their role within the theory of law of the last century. In particular, it is possible to distinguish at least three conceptual frameworks: an ontological model, a logical-formal paradigm and a pragmatic scheme.

The first one refers to some classical authors (from Aristotle to the following conceptual line rooted in the Christian tradition) classical authors and, in a legal perspective, gives rise to a theoretical pattern: law becomes an “expression” of the truth, that is to say the true nature of the reality (i.e. the ontological *status*). In this way, the doctrine of natural law, also understood as a form of legitimation of the validity of law, takes shape according to the classical sense (Aristotle and so on) as well as in the modern sense of “rational law” according to Grozio’s clues and including some of its contemporary rethinking (A. Kaufmann, 1963).

The logical-formal paradigm can be understood according to two versions: the framework shaped by the Kantian-transcendentalism or, in another direction, the linguistic-epistemological perspective elaborated within the *Wiener Kreis* (both perspectives had an influence on Kelsen’s theory). These are the conceptual bases of the legal positivism, including its distinction between truth and validity and, finally, encompassing some models of artificial or formalized languages (Tarski, 1933).

Finally, the pragmatic scheme develops in light of the post-modern scenario and includes a reflexive aspect, with a combination of the two dimensions. According to this framework and moving from some clues *lato sensu* proposed by Wittgenstein, “truth” should be understood as a pragmatic dimension and structurally defined by the actors/factors involved within contingent contexts: in this way, the idea of law as a “discursive or social practice” develops (also according to the version proposed by Patterson, 1996).

As regards the notion of “validity”, we can overlook the debate strictly developed within the scenario of the logic studies and concentrate the attention on the legal conceptualization of validity.

In particular, for instance, let’s consider the classical definition offered by Kelsen in his *Pure Theory of Law*:

The legislative act, which subjectively has the meaning of *ought* also has the objective meaning – that is the meaning of a valid norm – because the constitution has conferred this meaning upon the legislative act (Kelsen, 1967, p. 8, emphasis added).

As it is well known, this is the most classical expression of the doctrine concerning the legal validity and, according to the principal interpretations of Kelsen’s theory, it implies the deletion of the dimension of truth as a form of contextual/referential legitimation of the norms.<sup>1</sup> In other words: apart from its logical correctness and consistency, which is not a form of “truth”, the legal norm is “valid” without reference to truth.

Beyond the many versions of “validity” elaborated for instance in Bobbio (1960; 1965), Hart (1994), García Máynez (1951; see also Conte, 1995, p. 80), in a paradigmatic manner we can consider the interesting attempt to rethink the nexus truth-validity proposed within Amedeo G. Conte’s framework.

Conte discusses both the question of the patterns of truth and their relation with the idea of validity: in particular, the Italian author splits the notions of truth and validity.

On the one hand, by distinguishing between *veritas de dicto* and *veritas de re*, Conte suggests

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1 Anyway, some authors put into question this interpretation: see, for instance, Nino (1978).

that truth does not concern the definition of the norms, but only their “deontic status”: more precisely, he points out that, in a certain sense, the “norm” should be understood *like* a deontic state-of-affairs (also in light of Conte’s pair anankastic validity-formal validity).

On the other hand, validity regards a different level. According to Conte, “validity” (legal validity) is to be considered as a relational dimension. The idea of “validity” can only be conceptualized with regard to a legal order (Conte, 1995, I, pp. 75-111 and 147-161): in other words, the “level” of validity belongs to the “totality” of the legal order (see also Conte, 1962; Conte, 2016, pp. 21-37).

Beyond the different perspectives an important corollary emerges.

On a closer view, even though this operation is, or appears to be, very sophisticated, all the mentioned paradigms and the consequent operations are based on two historical-epistemological premises: a) the *relevance* conferred to the pair truth-validity in order to grasp the *proprium* of the (legal) normativity; b) the *possibility* “to separate” *in principle* the levels of “truth” and “validity”.

The present contribution moves from the following question: Is the pair ‘truth-validity’ always useful? Is it useful only in light of specific conditions? Should we go beyond the classical pair truth-validity?

Taking into account these preliminary remarks, the fundamental idea of the present paper can be formulated as follows. The “law in action”, not in the sense of the legal realism but by considering the relation with the dimension of the “effectiveness”, understood as the actual behaviour considered or experimented by the common people to the extent it is conceived as relevant in a normative manner (see also *infra*), *de facto* entails a sort of overlapping among the concepts or levels of “truth” and “validity”.

In other words: the (effective or actual) behaviour of the “man of the street”, namely the common people, shows a complex structure.

On the one hand it is based on “legal indications” (i.e., normative sentences or claims, symbolic entities, and so on), on the other the common behaviour involves a series of strata (beliefs, statements, practices, etc.), which can be synthesized through the idea of “common sense”: this makes the behaviour of the “man of the street” nomotropic (about this concept see also *infra*).

**3. Common Sense** In order to grasp the conceptual framework that I have suggested above, it is necessary to understand and precise the dimension of the “common sense”.

Common sense is a topic frequently and widely discussed (see, for instance, Rescher, 2005; Lemos, 2004) also within the philosophical-legal debate. For instance, common sense plays an important role in an epistemological perspective (see, for instance, Redekop, 2020), as well as in the perspective of cognitive science (Elio, 2002): more widely, the point calls for the role played by the background knowledge within different theoretical patterns.

In light of this scenario and moving from a legal horizon, we have to focus on the pair common man-common sense, in particular on the notion of “common sense” variously conceptualized by some authors.

In particular, we could think of the early intuitions offered in Hart (1994) as well as to the similar idea of “general knowledge” elaborated by Ronald Dworkin (1986, pp. 139-140) and, in this way, to the role played by the horizon of background frameworks developed within the perspectives proposed by theorists like Jules Coleman and Michael Bratman and the exponents of the “shared cooperative activity” (on these conceptual frameworks see Bombelli, 2017, pp. 164ff.).

Always in this direction, some interesting passages concerning the idea of *Glauben* proposed

within Kelsen's theory are to be remarked (Kelsen, 1934/2008, p. 135),<sup>2</sup> also in the perspective of a possible re-reading of the Kelsenian framework. Furthermore, it is to be noticed that the idea of "common sense" has been sometimes conceptualized in a close connection with the category of reasonableness (Artosi, 2009; Kelly, 2009; Hoekstra & Breuker, 2007; Palma, 2006; Barzun, 2004).

At a logical level, the notion of "common sense" is a sort of black box: in other words, it is a multilevel dimension of which only some boundaries can be drawn.

The point can be discussed in light of two levels: the *intensional (conceptual) dimension* and the *extensional projection*.

With regard to the first level (that of the *intensional-conceptual dimension*), the common sense is rooted in a very complex structure involving two sub-points. The horizon of common sense encompasses a heterogeneous list of elements or components, in particular the category of "ought" as well as a wide range of beliefs and behaviours.<sup>3</sup> At the same time, these elements should be considered closely related to each other and in light of their reciprocal connection. As regards the extensional aspect, the point implies the relation both with the dimension of the "space" and the institutional subject or the legal entity who "formalizes/defines" the common sense: in other words, common sense is to be "defined" as regards its territorial (or communitarian) reference.

From this point of view a question emerges: what is the degree of overlapping between a specific common sense and the corresponding "territory" (that is to say: the modern and legal translation of "space" when it is considered as a "statual space")? Moreover: how can we identify the "(legal, political) subject responsible for" the definition of the common sense and what are the conditions of this complex operation?

Two further remarks or corollaries can be formulated.

At the level of the common experience, the pair valid-invalid seems unsatisfactory.

On a closer view, the experience of the "man of the street" implies a sort of primitive "normative effectiveness" or, through the category proposed by Passerini Glazel (2012), a phenomenon of "operancy":<sup>4</sup> at this level "reality" and "deontic" seems connected. In this way, Conte's idea of "deontic regularity" (2004) seems insufficient or unfit to understand the legal experience and makes room for a different approach. From this point of view, also the notion of "deontic ascriptive proposition" (i.e. a deontic proposition, which is based on the sociological-anthropological observation of the social actors and through which it is possible to articulate the association between a deontic status and multiple conducts or events in order to understand a set of behaviours: Conte, 1995, vol. I, pp. 57-74, especially 69-70), could be useful, especially to remark the close connection between syntactics, semantics and pragmatics implied by ordinary legal experience (see Conte, 2011, pp. 13-26).<sup>5</sup>

In addition, it should be noticed that the dimension of common sense cannot be confused with the "rule of recognition" (Hart, 1994): the former is the pre-condition of the legal experience, the latter involves other levels (including cognitive levels).

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2 In particular: "Zu Werkzeugen der staatlichen Macht werden sie nur, sofern sie von Menschen im Sinn einer bestimmten Ordnung bedient werden, sofern die Vor|stellung dieser Ordnung, der Glaube, ordnungsgemäß handeln zu sollen, diese Menschen bestimmt" (see also p. 39, p. 105, p. 115 and p. 140).

3 For a wider explanation of this topic Bombelli, 2017, chapter 1.

4 According to Passerini the concept of "operancy" (i.e. "operancy of a norm"), originally proposed by Paolo Di Lucia, is very complex and heterogeneous: it should not be confused with notions like "efficacy" (or "fulfillment"), which is only *one* form of "operancy". See Passerini, 2012, pp. 238-244 (and more widely pp. 245ff.) for an analysis of the different dimensions of the idea of "operancy" through eight theoretical paradigms developed by Émile Durkheim, Max Weber, Leon Petrażycki, Theodor Geiger, Niklas Luhmann, Frederik Schauer and Amedeo Giovanni Conte.

5 See furthermore Conte, 2016, pp. 71-77, about the pair 'truth *de dicto*-truth *de actu*'.



**4. Deontics and Psychology: Some Husserl's Clues**

To this theoretical framework could be raised an important objection.

At a conceptual level, it could imply a confusion between the “deontic” level and “psychology” involving the overlapping between the psychological and the normative dimension. In this way the reference to Edmund Husserl (2005) is useful for two reasons.

Firstly, as it is well known, Husserl, in his *Logische Untersuchungen*, distinguishes between the psychological level and the logical (noetic) dimension. Aiming at a *Fundamentalarbeit*, his model also influenced the scientific debate of the first half of the last century about the nature of law (the idea of “norm”) and the relation between law and psychology.<sup>6</sup>

Secondly, in some way there is a continuity between Husserl's framework and Conte's perspective mentioned above: even though in a problematic manner and *à la* Husserl, the Italian philosopher hypothesizes a possible truth of prescriptive propositions understood as their correspondence to “deontic state-of-affairs” (Conte, 1995, I, pp. 17-30).

In light of the topics discussed in the present contribution, Husserl's position can be taken into account with reference to three fundamental points: the relation between logic and practical valuation, the rediscussion concerning psychologism and, finally, the complex model of logic.

Firstly, moving from the idea that logic is a normative and a practical discipline (Husserl, 2005, I, chapter 1) and that the “theoretical disciplines” are to be considered the foundation of the normative ones (Husserl, 2005, I, chapter 2), the German philosopher points out that “[a]normative interest is naturally dominant in the case of *real* (*realen*) objects, as the objects of *practical* valuations”. Accordingly “each normative, and, a fortiori, each practical discipline, presupposes one or more theoretical disciplines as its foundations”: that is to say, “the theoretical sciences[are]absolutely essential to[the construction of a normative science], perhaps also the relevant groups of the theoretical propositions which are of decisive importance in making the normative discipline possible” (Husserl, 2005, I, pp. 37-39, emphases in the text).

The point for us is the connection with law. In this way, law (i.e., the legal science) should be understood as a “normative discipline” and a “practical dimension”, which is closely related to the theoretical and epistemological patterns.

Secondly, we have to consider the rediscussion of the psychologistic perspective proposed by the German philosopher (Husserl, 2005, I, cap. 3). Husserl sums up his analysis as follows: “Have the arguments of psychologistic thinkers really settled this? [...] The argument only proves one thing, that psychology helps in the *foundation* of logic, not that it has the only or the main part in this, not that it provides logic's essential foundation”. In addition: “The possibility remains open that another science contributes to its foundation, perhaps in a much more important fashion. [Hence]the place for the ‘pure logic’ which [...] has an existence independent of all psychology, and is a naturally bounded, internally closed-off science” (Husserl, 2005, vol. I, pp. 44-45; see also I, chapters 4-10).

In this way, we can appreciate the Husserlian idea of “pure logic” and his complex theoretical pattern. In particular, the concept of knowledge conceived as a unity of “objectivity” and “truth” is noteworthy: the expression “knowledge” is to be understood “wide enough to cover both simple acts of knowing, as well as logically unified interconnections of knowledge [...]” (Husserl, 2005, I, p. 145).

Husserl's distinction between logic and psychology, which is elaborated in a phenomenological perspective, is still useful. At the same time, it can be rethought, especially in the consideration of law as a “legal experience”: that is to say, moving from the dimension of the

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<sup>6</sup> Also as regards Kelsen's position concerning the logical-deontic nature of the legal norm dating back to the *Wiener Kreis*: see also the previous remarks about the concept of validity.

“law in action” (the man of the street), which is to be understood as the (legal) norm in a dynamic manner and closely connected to the ordinary experience.

Within the “common experience” and by reasoning through the dimension of common sense, it is difficult to separate or to split the levels. On a closer view, common sense encompasses both levels and does not distinguish in a strict way the logical level, the deontic profile and the psychological sphere (according to an Husserlian/Kelsenian’s acceptance).

More precisely, the point can be developed through Husserl’s lexicon and categories.

Beyond the psychologistic perspective, in consideration of the practical nature of law and also in light of Husserl’s idea of logic as a “practical dimension”, the “legal judgement” could be understood as a form of “knowledge” or “cognitive understanding” (Husserl, 2005, chapter 11). In other words, the notion of “law” rooted in the ordinary experience could be considered as a sort of theoretical *as well as* practical “act of knowledge”: “every explanatory interconnection is deductive, but not every deductive interconnection is explanatory. All grounds are premises, but not all premises are grounds” (Husserl, 2005, I, p. 147).

In this way, always by reasoning through Husserl’s categories, law can be understood as a “putative meaning” (Husserl, 2005, I, p. 206) and, in the same way, we could adapt to law what Husserl points out about the relation apperception-expressions/intuitive presentations (Husserl, 2005, I, pp. 213-215): “law” should be considered as a sort of “act of meaning”, within which “we are not conscious of meaning as an object” (Husserl, 2005, I, pp. 232-233).<sup>7</sup>

More precisely, the theoretical as well as the practical intuition of “law”, for instance the notion of general and legal disposition (i.e. its various names: loi, lex and so on), seems to play the role of the “general idea” described by Husserl concerning the processes of “abstraction” and “representation” (Husserl, 2005, I, pp. 277-278 and 278ff.).<sup>8</sup>

The point can be also deepened by referring to the phenomenological approach developed by Husserl.

Moving from the idea of “consciousness” as an intentional experience (Husserl, 2005, II, pp. 94ff.), which involves a particular concept of “presentation” and “presentational content” (Husserl, 2005, II, pp. 146,175), the common sense underlying the “experience” of law involves a form of “presentational” (to speak *à la* Conte: deontic) content. In the same way, the Husserlian pair form-content and the function of “categorical forming” appears very useful (Husserl, 2005, II, pp. 306-308): at the conceptual level, is law understandable as a “forming category”? From this point of view, some analogies with the idea of “legal formants” developed by Rodolfo Sacco are to be remarked (Sacco,1991a; 1991b), especially in light of the role played by implicit dimensions underlying law and the “experience” of law. By reasoning on “non-objectifying acts as apparent fulfilments of meaning” and with particular regard to the idea of “decision”, Husserl summarizes his position as follows: “*The ostensible expressions of non-objectifying acts are really contingent specifications of statements and other expressions of objectifying acts which have an immense practical and communicative importance*” (Husserl, 2005, II, pp. 333, but see also pp. 323-334; emphases in the text).

In this way, it is noteworthy that within the contemporary philosophical-legal debate there are some tracks or clues in order to rethink the separation or distinction between different dimensions.

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7 Furthermore, see pp. 239-240 as regards the intentionality concerning “universal objects”.

8 Furthermore, see II, pp. 51-55 concerning the “complexity of meaning and complexity of the concrete act of meaning”, including the implied meanings and the question of the meaningfulness of the “syncategorematic components of complex expression”.

In particular, we should refer to some recent philosophical-legal and sociological-legal research:<sup>9</sup> they are different attempts to redefine and rediscuss the boundaries between the normative approach and the psychological dimension, in order to highlight the possible and reciprocal “intersections” also as regards to the pair truth-validity.

**5. Truth and Validity “in Action”**

This conceptual framework can be analyzed in depth by considering the dimension of “effectiveness” or, according to another perspective, the *actual* behaviour of the “man of the street”.

The point will be developed through two steps closely related to each other: the analysis of two meanings of “effectiveness”-“efficacy” (i.e. hereinafter understood as the real legal behaviour: on this pair Conte, 2011, pp. 73-86) and, in light of a logical connection, the horizon of beliefs.

With regard to the first point, it is necessary to distinguish two meanings of “effectiveness” (i.e., real legal behaviour). The first meaning concerns the conceptual assessment about the degree of the adhesion of the social actor to the normative disposition. In other words, the space or distance between a “norm” and the actual behaviour: this is the traditional acceptance of “effectiveness” belonging to the continental legal dogmatics.

The second meaning entails the pure “fact” of the behaviour. In this case the reference encompasses a series of frameworks related to behaviours *in some way* concerned with law, or better with what is commonly felt and understood as a normative or legal *vinculum*.

From this point of view, the behaviour of the common people implies a sort of overlapping or interconnection between the two levels: in other words, in some way it is *always* nomotropic (i.e. understood as an agency with reference to a known or supposed universe of “rules”).

This is why for the common man the conceptual distinction between “true” and “valid” is not relevant and is secondary: one could say that the common man, the “man of the street”, is reflexively and practically nomotropic.<sup>10</sup>

The “man of the street” is a sort of nomotropic animal “in action”. To put it in another way: the “man of the street” normally *believes* that rules, that is to say the element and facts generally felt or believed and understood as legally relevant for him, are true. In other words, he cognitively *supposes* that they are true and/or valid.<sup>11</sup>

Two corollaries are to be remarked.

First corollary. At the level of common sense, the (possible, potential) “control” of the distinction between “truth” and “validity” occurs only *after* the “experience of law”. That is to say: in a successive step and only in light of specific conditions: for instance, the historical-contextual necessity to establish the relation between truth and validity. In other words: a “true norm” *becomes* valid or, in another direction, a “valid norm” has no relation with the dimension of truth.

Second corollary. The analysis seems to suggest the necessity to find out a particular semiotics in order to understand the legally relevant behaviour of the “man of the street”. More precisely, there is a sort of intersection between the deontic level and the pragmatic

9 See, for instance, Celano, 2017, who talks about a psycho-deontic; Cominelli, 2018 and Bombelli, 2022a.

10 See also Conte’s model of nomotropism: Conte, 1995-2001, I, pp. 117-145 concerning the effectiveness of the legal orders; Conte, 1995-2001, II, pp. 47-56 and 57-72; Conte, 2011, pp. 47-56.

11 In this way, for instance, some passages of Blaise Pascal’s “Thoughts” [Pensées] concerning the relation between “custom” (i.e. “habit”, “practice”; “habitude”, “coutume”) and the range of “beliefs” underlying (and beyond) the legally relevant behaviour are paradigmatic: when compared with other perspective (i.e. Montesquieu’s “Essays” [Essais]), Pascal’s framework highlights the complexity of the ordinary experience of the legal normativity (on this topic Gazzolo 2022). Anyway, see also *infra* about the customary law.

dimension: within the legal experience “validity” and “truth” in some way are closely intertwined.<sup>12</sup>

These remarks introduce to the second aspect above mentioned: the horizon of “beliefs”. As it is well known, the attention to this horizon dates back to Weber’s and Wittgenstein’s sociological-philosophical perspectives (Weber, 1922; Wittgenstein, 1974; furthermore, Bombelli, 2017), but it also involves the legal sphere.

In a paradigmatic manner, we can refer to the classical problem of customary behaviour and its relation with law. From the positions elaborated by the German Historical School of Jurisprudence (Savigny, 1840-1849; Puchta, 1828) till Norberto Bobbio’s theory of “custom” (Bobbio, 1942), the debate about the role played by the “beliefs” (*opinio*) within law has highlighted the necessity to clarify the relation between the “norm” and the complex universe of conducts (including the world of “beliefs”: Bombelli, 2022b). As regards this aspect, the crucial point is the definition of the *nature* as well as the *identification* of the origins of the common behaviour considered as customary law (including the conditions of its legal relevance).

Two further corollaries.

First corollary. In light of these premises, the “psychological” (better and *lato sensu* mental) dimension becomes crucial. Some of the aforementioned works aim at providing some keys in order to explore and to highlight the complex horizon underlying the “normative” behaviour, which is rooted in the “common sense”: in the present contribution this framework has been defined as a “black box” closely related to the “cognitive” level.

Second corollary. Placed on the ambiguous line separating the implicit background (common sense) and the explicit dimension (i.e., the positivist idea of normative source) underlying the legal experience, the universe of the “norms (rules)” becomes a series of tools oriented to a double goal: for the “man of the street” the distinction between norms and principles is irrelevant. On the one hand they can be considered as a sort of “indication” for the correct (i.e., in a positivist sense) conducts, on the other hand they play the role of an “orientation” of the behaviours: in other words, the condition for a rule-guided behaviour (for a comparison concerning this latter notion see, for instance, Shapiro, 2005).

Finally, once again it is to be emphasized that for the “man of the street” the different levels are always closely related to each other and, in some way, intertwined. In this perspective, Wittgenstein’s idea of *Lebensform* can be fruitful (Conte, 1995, II, pp. 267-312 and 315-346): in the last analysis, the notion of “law” elaborated and experimented by the “man of the street” gives rise to a form of “legal *Lebensform*”.

We can try to fix some final points, or provisional conclusions, through some questions.

First question. Is the distinction truth-validity really decisive within the legally relevant common behaviour (i.e. actual behaviour)? In other words: does the distinction truth-validity matter for the common people?<sup>13</sup>

## 6. Some (Provisional) Conclusions

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12 This framework could be also described by Kripke’s model based on the idea of “possible worlds” (Kripke, 1959; Hintikka, 1967) or, starting from another perspective, through Wittgenstein’s concept of “rule” and “following rule” connected to the horizon of common sense and a set of assumptions (Wittgenstein, 1958, I, nr. 54, 27; on this point Conte, 1995, I, pp. 173-191, in particular footnote 11 concerning the notion of “presuppositions” and “assumptions”, and pp. 237-254 as regards the concept of “rule” within Wittgenstein’s model; furthermore Conte, 2001, III, pp. 921-945 and 947-986; Conte, 2016, pp. 181-199), which can be compared to the category of *Annahme* developed by Alexius Meinong (Meinong, [1902]1977: see also Raspa, 2012 and Lenoci, 1972, especially chapters 4-5 concerning the notions of *Meinen* and *Denken*).

13 Conte (2011, pp. 1-12). Furthermore pp. 87-92 as regards the possible meanings of the concept of “effectiveness” and pp. 93-96, concerning the complex relation between “Norm” and “Normsatz” within Theodor Geiger’s framework

Second question. In the case that the distinction truth-validity has only a conceptual relevance, what is the relation among the many levels connected to the legal experience?<sup>14</sup> Third question. What are the reflexes of this approach as regards the theory of law? More generally: what is the “model” of law emerging from the framework suggested in this paper? The final impression is that the pair truth (variously understood at many levels)-validity (especially understood according to the paramount theory of law elaborated within the last century) belongs to a particular conceptual-cultural context (the last two centuries) and it gradually loses relevance. The increasing modification of the “legal environment”, that is to say the political-institutional changes and the implementation of the legal orders, involves a paramount reconfiguration of the relation between the concepts of “form” (validity?) and “content” (truth).

In other words: the increasing role of the pragmatic or “performative” dimension, which moulds the legal scenario of the contemporary complex societies, puts in question some classical/modern conceptual distinctions (like the pair truth-validity).

This does not imply that the mentioned couple should be disregarded, but it maybe requires or elicits new conceptual tools. In conclusion and in a wider perspective: what is the consequence of the approach suggested in this paper about the relation between the “theory of law” and the “practice of law” or, in a similar way, between “(legal) theory” and “(legal) praxis”?

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and, more generally, the comparison between “*Normsatz*” and “*Satznorm*” including a reference to Rodolfo Sacco's perspective.

<sup>14</sup> Conte, 2011, pp. 1-12; furthermore pp. 87-92 on the complex levels implied by the relation among behaviors, facts and rules.

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SECTION

V



# SECTION V

## FURTHER CONTRIBUTIONS

*Caterina Del Sordo and Roberta Lanfredini*

Matter at a Crossroads: Givenness vs Forceful Quality

*Stefano Colloca*

On the Deontic Validity of the General Exclusive Norm

*Alessandro Volpe*

Doing Justice to Solidarity: On the Moral Role of Mutual Support

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# MATTER AT A CROSSROADS: GIVENNESS VS FORCEFUL QUALITY

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## *abstract*

*This paper aims to develop a concept of matter as something both knowable and relevant for the empirical test of our knowledge statements. In light of the debate between logical empiricism and phenomenology, the paper discusses the forms of realism and theory of experience revolving around the observable/unobservable and visible/invisible distinctions. On this basis, a notion of matter is outlined that is based on the concept of forceful quality, rather than on givenness. Finally, it is shown that the concept of forceful quality can be a good candidate for solving the paradox of categorization, by moving beyond the solutions proposed so far.*

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## *keywords*

*paradox of categorization; phenomenology; logical empiricism; power; material a priori*

**1. Introduction** The present paper aims to offer a fresh contribution to the debate on the philosophical concept of matter. This debate, which originated in philosophy of science and scientific-theoretical contexts (Banks, 2003; Parrini, 1994), has become an object of renewed interest in contemporary empirical research. Materiality is explicitly included among the foundational topics of scientific disciplines – such as cognitive science and the philosophy of the human person – that rely on the concept of embodied mind (Calvo & Gomila, 2008; De Vecchi, 2019). In the tradition that extends at least from Kant to the present day, through neo-positivism, matter is taken to perform a fundamental role in the empirical test of our knowledge statements. For both Kant and neo-positivism it is necessary to appeal to a material criterion of truth, which is to say to the immediate experiences that constitute the point at which language *touches* reality, in order to set some limits to the potentially unlimited freedom that the formal criterion of truth affords (Parrini, 1994).

Like many topics of scientific-foundational relevance, materiality constitutes one of the thorniest problems faced by Western philosophical thought. In this context, the conception of what is considered *matter* parallels that of what is considered *form*. More specifically, matter is defined as an aspect essentially linked to particularity, sensibility, inexpressibility, intuition, content, quality and reality, in the sense that it is ontologically pure, or *mind-independent*. Correlatively, form is characterized as an aspect defined by universality, epistemicity, intellect, rationality, structure and ideality, in the sense that it is ontologically spurious, or *mind-dependent*.

Based on this defining framework, the epistemic importance of matter generates the so-called paradox of categorization (Scheffler, 1982). This paradox, which has been formulated in a number of different ways, constitutes one of the crucial problems in contemporary philosophy of science. Within it, two parallel approaches to matter can be distinguished: one that we may define as ontic and another that we may regard as specifically epistemic. This paradox and these two approaches have logically given rise to several debates, e.g. the one between conceptual and non-conceptual content, and several theses, like those on the circularity of empirical test and the incommensurability of alternative conceptual schemes (among others). This paper will address the issue of matter in way general enough as to avoid having to choose one approach or the other.

The paradox of categorization stems from a focus on the point of contact between the authentic cognitive, or formal, dimension and direct experience, i.e. the material dimension. In this context, matter cannot be, at the same time, ontologically pure, or real, and

epistemically relevant. Indeed, if matter is ontologically pure, then it becomes difficult to understand what actual role amorphous, unchanneled content can play in terms of theoretical test. On the other hand, if we attribute some form, or sensible content, to matter, it becomes difficult to understand how this sensible experience may act as a brake on our theoretical and conceptual assumptions.

With respect to this paradox, two kinds of positions have been adopted. One position, which we may define as the *negative critical position*, tends to support the idea of the unknowability of matter. The other, which we may define as *positive critical position*, tends to support the notion of the knowability of matter.

On the negative critical side, we find the views traditionally associated with Kant and logical empiricism. The former argues for the impossibility of having a general material criterion of truth. Logical empiricists instead contend that intuitive content is unknowable: a fundamental axiom of 20th-century scientific philosophy, in which content, or matter, is considered to have to do with life [*Erleben*] and not with knowledge (Schlick, 1979c).

In opposition to the Kantian and neo-positivist negative critical position, the positive critical one was developed – that of Husserlian phenomenology. According to its perspective, pure matter is knowable in light of its own normativity, i.e. material a priori. However, in light of certain objections, positive critical stances proves hardly distinguishable from their rival ones. Material a priori statements would turn out to be conceptual in nature, i.e. formal, until proven otherwise. Thus, in wishing to maintain a positive critical position with respect to the paradox of categorization, phenomenology might end up reinforcing the opposite stance (Schlick, 1979a).

In the face of this largely aporetic picture, the present article aims to suggest a new line of research. It will do so by putting forward the general hypothesis that the positive and negative positions adopted so far are all based on a shared tenet, namely: the assumption that matter must, on the one hand, serve as an epistemic foundation and, on the other, rest on the concept of *givenness*.

As the fluctuating development of Schlickian thought shows, the negative critical position tends to uphold both the unknowability of content and its unavoidability in the procedure of empirical testing of our knowledge statements. The introduction of protocol sentences in early logical empiricism can indeed be interpreted as an attempt to find a balance between these two tendencies. In terms of its givenness and foundational epistemic function, the idea of matter entailed by the concept of protocol mirrors the one at work in the phenomenological positive critical position. In the history of the debate on the relationship between theory and experience in cognitive processes, as notably exemplified by the debate between Schlick and Neurath, the negative critical position – unlike the rival one – tends to modify the material nature of protocol sentences by positing the unavoidable presence of overdetermining theoretical elements.

Within this context, the specific hypothesis we wish to put forward is that the modification of the axioms of givenness can lead to a non-aporetic and more virtuous philosophy of matter. A comparison between the observable/unobservable distinction and the visible/invisible one – respectively drawn by the neo-positivists and the later phenomenologists – may prove crucially useful in this respect.

To develop our hypothesis, we have chosen to divide the article into three sections. The first section (§2) singles out the assumptions underlying the model of matter based on the concept of *given*. In the second section (§3), these presuppositions are embedded in a new type of realism and theory of experience, which we will deem *synthetic*. In the third section (§4), a redefinition of the concept of given is provided. Finally, this section outlines a solution to the paradox of categorization by introducing the concept of *forceful quality*.

**2. Matter as Residue** The negative critical position and positive critical one with respect to the paradox of categorization rely on a theory of experience according to which matter is as unknowable as it is epistemically fundamental. The choice to formulate a theory of experience stems from the rejection of metaphysical realism, understood as the idea that things in themselves exist, i.e. elements that are unobservable or unknowable in principle. This notion is regarded as being a contradictory, impossible, nonsensical, or counter-sensical one (Lanfredini, 2018, pp. 107-108). In order to find a way out of the dichotomies it engenders, the Kantian, neo-positivist and phenomenological philosophical traditions assume a fundamental theory of experience which defines the latter in a purely *epistemological* way, as co-extensive with the observable, knowable and structural domain.

Givenness emerges as the minimal component of this theory of experience. It must therefore be determinable according to the epistemological requirements of structurability, knowability and observability, to avoid the nonsensical positing of a “world outside our world” (Husserl, 1976, pp. 108-109) – that is, a reality in itself, lying in principle outside the grasp of any knowing subject. Determinacy, or determinability, thus turns out to be the fundamental axiom of givenness and of the concept of matter based on it. Given its unquestionable progress towards a scientific view of what one can understand by “given”, phenomenology can provide for a suitable means to clarify the assumptions we are now interested in.

Determination consists of three fundamental elements; listed from the simplest to the most complex, these are: *essence*, *part* and *synthesis* (Lanfredini, 2022). These fundamental elements are characterized by mainly formal aspects. In particular, the notions of essence, part and synthesis are defined as invariants in relation to variations in individual facts, moments and experiential perspectives, respectively (Husserl, 1976).

On the basis of an essentially epistemological view of givenness, matter is characterized as a residual element. Indeed, the notions of essence and synthesis refer to the impossibility of the manifestation of individual facts without eidetic invariances or of perspectives without objectual unifications. In turn, the notion of part establishes – through the concept of material a priori – the foundational character of the notion of extension, which becomes a condition of possibility for any manifestation of qualities. The purely ontological element of matter thus necessarily becomes something elusive, insofar as it is essentially non-determined, i.e. qualitative, variable and fluctuating.

The axiomatic framework of givenness shows that the aforementioned negative critical and positive critical positions rest on an ontologically spurious notion of matter. From this point of view, it could consequently be argued that in the debate on intuitive content between Schlick and Husserl, the former’s view of this content as unknowable is more correct than the latter’s illusory belief that it can be known.

**3. Visible/Invisible VS Observable/ Unobservable** According to the specific hypothesis this article is presenting, the modification of the axiomatic framework outlined above may lead to the formulation of a non-aporetic concept of matter. To achieve this end, we must meet two main goals: 1) to overturn the residual logic entailed by the concept of determinacy and 2) to redefine the concept of given. This section deals with the first goal.

The epistemological assumptions of the theory of experience outlined so far support the epistemic framework within which a good deal of results is achieved in cognitive sciences (cf. Calvo & Gomila, 2008). Replacing such assumptions might cause the philosophical concept of matter to lose much of its explanatory power. In accordance with the moral expressed by the famous Horatian hexameter *Graecia capta ferum victorem cepit*, it would seem more expedient not to replace these assumptions at all, but to incorporate and explicate them within a more comprehensive theory of experience. Without compromising our rejection of metaphysical

realism, we must broaden the horizon of experienceable entities.

It is interesting to note that logical empiricism itself adumbrates – yet does not theoretically develop – a notion of matter that is different from the one at work in the epistemological paradigm of protocol statements and phenomenology. What we are referring to, in particular, is the idea of materiality associated with the early Schlick's concept of *Konstatierung* (1979b) and with the concept of *chaos* found in Carnap's preparatory writings to the *The Logical Structure of the World* (Carnap, 1967; 1922; Del Sordo & Mormann, 2022). This kind of materiality shares with the protocolar and phenomenological one the property of being epistemically fundamental, while at the same time differing from it insofar as it is essentially non-given. A philosophically more detailed notion that moves in the same direction as *chaos* and *Konstatierung* is that of the *invisible* (James, 1902; Merleau-Ponty, 1968). This meets several interesting requirements for the achievement of our first goal.

Firstly, the invisible dimension displays a defining characteristic of materiality, namely being linked to a real, sensible, particular, contentful and qualitative domain of entities. As a subset, it also includes the horizon of visible entities which is co-extensive with that of observable entities. Secondly, unlike the notion of the unobservable, that of the invisible meets the conditions for a form of realism, yet not those for the positing of entities that are unobservable, or unknowable, in principle. This theoretical divergence is rooted in the conception of the invisible as a dimension that lies not *outside* or *beyond* the observable, but in contiguity and continuous interaction with it (*ibid.*).<sup>1</sup> Finally, whereas in the epistemological conception of experience the observable realm of entities has logical primacy over the unobservable, the relation between the visible domain and the invisible entails an inverted *structure*, whereby the latter has biological, or genetic, primacy over the former.

Based on these requirements, the invisible dimension of entities presents itself as a good candidate for a non-aporetic presentation of the philosophical concept of matter. For it not only satisfies the characteristics of materiality, expanding the epistemological notion of experience, but also overturns the residual logic to which the latter had led. As this overturning occurs not on the logical or static level, but on the genetic or biological one, we define the resulting realism and theory of experience as *synthetic*.<sup>2</sup>

This proposal certainly puts forward a neutral view of the relationship between subject and object, as well as of the disputes stemming from it, such as those between idealism and realism, instrumentalism and scientific realism, phenomenalism and physicalism. However, we wish to emphasize that the type of neutrality suggested here is not based – as in Carnap – on the concept of constitution (Carnap, 1967). It is, rather, a genetic type of neutrality, which Carnap may have adumbrated in the aforementioned concept of *chaos* in his early 1922 and 1923 writings (Del Sordo & Mormann, 2022, p. 241), and which can be found in the Bergsonian concept of *duration* (Bergson, 1907), as well as in the Jamesian concept of *pure experience* (James, 1977).

The notion of constitution could be borrowed by the synthetic-biological paradigm only once it has been stripped of those epistemological elements that have traditionally distinguished it. An attempt in this direction could be made by considering Husserl's work on passive synthesis (Husserl, 1966). However, this updating of the concept of constitution would require detailed additional considerations that, due to space constraints, cannot be provided in this paper. For the time being, we will limit ourselves to pointing out the genetic and non-constitutive nature of the philosophical neutrality we are presenting here.

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1 This idea of interaction is also present in the neutral monism of Mach and Russell (see Banks, 2014).

2 We use the term *synthetic* here in a sense not opposed but akin to the original sense of the term *analytic* that we find in Aristotle's biological writings (Friedman *et al.*, 2010).

**4. Forceful qualities**

In order to develop a non-aporetic model of matter, we have set ourselves the task – as our second objective – to redefine the notion of givenness. In line with the historico-philosophical reappraisal of the phenomenism of early logical empiricism that has occurred over the last ten years, we believe that the concept of *forceful quality* may be a promising candidate in this respect (Banks, 2014). The literature defines it as follows:

Elements [forceful qualities] are embedded in real causal-functional relations to each other (Banks, 2014, p. 5).

[They] are concrete natural qualities like our sensations [...] the qualities of these elements are actual individual manifestations of natural forces (p. 49).

[...] each [natural force] is token-identical with its particular manifestation [...] There is no such thing as unmanifested energy “in itself,” no universal substance or fluid [...] (p. 149).

The adoption of forceful qualities as a synthetic-biological enhancement of the concept of given can be supported by the following arguments.

Firstly, the qualitative and manifestative aspects of forceful qualities enable them to display both material and determinable aspects, which seemed incompatible within the epistemological paradigm. Secondly, what is manifested in forceful qualities is considered token-identical with respect to its manifestations. Although being a “manifestation of” (Banks, 2014, p. 49) nominally refers to something *other* than the manifestation *per se*, forceful qualities do not convey the existence of entities that are in principle unobservable (a concept dear to metaphysical realism). Finally, the concepts of force, disposition and power enable a reinterpretation of the notions of essence, part and synthesis. Conceived of as invariances with respect to variations within the epistemological paradigm, these notions undergo a *Gestalt* switch in the synthetic-biological paradigm, which presents them now as variations with respect to invariances, as well as the opposite.

With regard to essence, forceful qualities, as the minimal components of an impersonal metaphysics (Banks, 2014), can be representative of individual facts. Essence thus reorients itself by supporting the primacy of facts, rather than of eidetic invariants.

The particularity of causal-functional relations, in turn, enables a reorientation of the normativity of material a priori characterizing mereological relations. Whereas the epistemological paradigm emphasizes the more formal and structural aspect of normativity, the concept of forceful quality brings to the fore a kind of normativity based on concrete relations, which in their very coming into being constitute – a posteriori – the *relata* themselves.

In comparison with the notion of synthesis, which emphasized the identity function of objectual unification, forceful qualities bring out the process of differentiation of complexes, or blocks, of causal-functional relations (*ibid.*).

When it comes to forceful qualities, contemporary research has taken up two important challenges, which reflect the ontic and specifically epistemic approaches included within the paradox of categorization. One challenge pertains to analytic metaphysics and philosophy of mind, the other to the problem – an open one until proven otherwise – of deriving from the complexes of forceful qualities the substantial stability characterizing natural world objects (*ibid.*; Grasso & Marmodoro, 2020). Although these questions cannot be addressed here, the present paper represents a contribution to the debate surrounding them. Indeed, by employing the notion of forceful qualities, it has outlined a concept of matter that is both non-aporetic with respect to the paradox of categorization and broad enough to serve as a basis for the epistemic framework of many branches of empirical science.

According to the previous sections, it is possible to develop a concept of matter that retains epistemic significance while not relying on the epistemological concept of givenness. In this sense, the concepts of forceful quality, synthetic-biological realism and the theory of experience may provide the sought-after solution to the paradox of categorization.

With respect to the paradox, the research conducted so far has adopted either a positive critical or a negative critical stance – i.e. a stance either in support of or against the idea of the knowability of matter. On the basis of the broadening of the framework of assumptions developed in the present paper, it is possible to conclude that within the synthetic-biological paradigm the question of the knowledge of matter can be posed in terms that are not strictly epistemological.

In particular, the synthetic-biological paradigm fosters an embodied notion of knowledge which proves different, yet fundamental, with respect to the strictly epistemological one. The paradigmatic shift envisaged here thus opens up a new theoretical perspective on matter, which makes epistemological unknowability and embodied knowability compatible, bypassing the positive critical and negative critical stances formulated so far.

A further development of this path entails a discussion of the notion of *flesh* (Merleau-Ponty, 1968). Linked to it are numerous open problems that cannot be addressed in this paper. Two examples are the hotly debated issues of the embodied mind and embodied cognition (Calvo & Gomila, 2008; Shapiro, 2019), which are addressed in the empirical field of cognitive science and the philosophical one of post-Husserlian phenomenology.

## 5. Conclusions

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# ON THE DEONTIC VALIDITY OF THE GENERAL EXCLUSIVE NORM

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## *abstract*

*The paper concerns the following two questions: (i) is the general exclusive norm a proper legal norm? (ii) if the general exclusive norm is a proper legal norm, is it universally valid? It will be held that the general exclusive norm is a proper legal norm and not a logical principle. Therefore, as a legal norm, it can be said to be valid or invalid. The answer to the second question will be negative: the general exclusive norm, as a proper legal norm, is valid only in those legal systems in which it is positively established.*

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## *keywords*

*legal system, validity, general exclusive norm, principle of prohibition, legal gap*

**1. On the Concept  
of General  
Exclusive Norm**

In one of the first Italian modern essays on gaps and completeness of legal systems, Donato Donati investigates the validity of an unexpressed norm under which cases not expressly regulated by “particular provisions” fall.

We say that a general norm of this content derives from the set of particular provisions, which, by considering certain cases, establish for them the existence of obligations: in all other cases there must be no limitation. [...] From the set of provisions themselves derives at the same time a set of particular inclusive norms and a general exclusive norm: a set of particular norms aimed at establishing obligations for the cases they particularly consider, and a general norm aimed at excluding any limitation for all other cases, not particularly considered (Donati, 1910, pp. 35-36).

The author argues for the existence of an unexpressed *general norm* that *excludes* any obligation or prohibition in all cases not expressly regulated through an imperative deontic modality.<sup>1</sup> The legal system is, therefore, conceived by him as a collection of particular inclusive norms and a general exclusive norm. Furthermore, Donati argues that the general exclusive norm (i) is a genuine norm, as it determines new legal relations not established by the particular provisions, and (ii) establishes the completeness of the legal system, leaving no conduct unqualified.

Norberto Bobbio and Amedeo G. Conte respectively come up with definitions of general exclusive norm similar to Donati's. Bobbio defines the general exclusive norm as follows:

All conducts not included in the particular norm are governed by a *general exclusive norm*, i.e. by the norm that excludes (for this reason it is exclusive) all conducts (for this reason it is general) that do not fall within those envisaged by the particular norms. One could also say, with another turn of phrase, that norms are never born alone but in pairs: each particular norm, which we could call inclusive, is accompanied by the exclusive general norm, as if it were its own shadow (Bobbio, 1993, p. 252).<sup>2</sup>

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1 By 'imperative' I mean – adopting the use made by Conte (1997a) – “either obligatory or forbidden”.

2 With regard to the metaphor of the shadow, it can be remarked that, more properly, the general exclusive norm does not follow (as a shadow) each single inclusive particular norm: it follows (as a shadow) the set of inclusive

It might be useful to clarify the meaning of the adjective “particular” occurring in both Donati’s<sup>3</sup> and Bobbio’s<sup>4</sup> formulations. The two authors, respectively, by “particular provisions”/“particular norm[s]”, do not refer to *individual* provisions/norms or *special* norms. I believe that the expressions “particular provisions”/“particular norm[s]” refer to provisions/norms that *directly* identify classes of cases, whereas the general exclusive general *indirectly, ex negativo*, identifies classes of cases.

Conte (1997b) defines the general exclusive norm as a “norm that qualifies deontically indifferent all behaviours not qualified by imperative norms (i.e. that states the deontic indifference of conducts not qualified as either obligatory or prohibited). Wherever there is neither obligation nor prohibition, there is deontic indifference” (p. 309).<sup>5</sup> Let us label [GEN Conte] the concept of general exclusive norm defined above. The general exclusive norm, according to Conte’s reconstruction, is a norm that (i) deontically qualifies behaviours and (ii) qualifies them as indifferent (in other words, behaviours of which both commission and omission are permitted). According to both Conte and Donati, the exclusive general norm establishes the completeness of the legal system. However, while for Donati every legal system is endowed with a general exclusive norm, for Conte the validity of the general exclusive norm is a *matter of fact*, not a *matter of reason*, since it depends on whether the general exclusive norm is in force within a given legal system.<sup>6</sup>

In legal theory the general exclusive norm is often called “*principle of prohibition*”. However, I will preserve the expression “*general exclusive norm*” for at least two reasons: (i) the philosophical debate which I start from (mainly developed in Italy in the 20th century) has more often used the expression “*norma generale esclusiva*”; (ii) the expression “*principle of prohibition*” is more vague, since it may refer either to a logical principle or to a legal principle, or to a legal rule.

Guastini (2011) defines the general exclusive norm as a “norm of closure”<sup>7</sup> according to which “everything that is not (expressly) forbidden is (tacitly) permitted”. If it is in force, all conducts are therefore deontically qualified: “there are two cases and only two: either a conduct falls under the domain of a particular norm that prohibits it or, otherwise, it falls under the domain of the general norm that permits it” (pp. 143-144).<sup>8</sup> Let us label [GEN Guastini] the concept of general exclusive norm defined above. Guastini, like Conte (and unlike Donati), argues that the general exclusive norm is not universally valid: “It must be insisted, however, that the general exclusive norm completes all and only those legal systems in which it can be said to be law in force” (Guastini, 2011, p. 144). According to the author, it is possible to find such a rule even expressly stated. In the current Italian legal system – the author points out – the general exclusive norm is expressly stated only for a portion of the legal system, namely for the area of criminal law (art. 25, Const.; art. 1, criminal code).

particular norms as a whole. See also Bobbio (1994).

3 “Particular provisions” [*disposizioni particolari*].

4 “Particular norms” [*norme particolari*].

5 English translation is mine. It is worth reminding that in Conte’s lexicon ‘imperative’ means “either obligatory or forbidden” and ‘indifferent’ means “both permitted and facultative”.

6 According to Conte (1997a), “Undoubtedly if a general exclusive norm is valid in a given legal system, therefore that legal system is complete. I only remark that the general exclusive norm is valid, *wenn überhaupt*, only in some legal systems” (p. 155). On the general exclusive norm see also Poggi (2004).

7 While according to Guastini the general exclusive norm is a norm of closure, Conte (1966) distinguishes between completeness and closure, arguing that the completeness is not a necessary condition for the closure and the closure is not a sufficient condition for the completeness. See, among recent works that seem to deny this conceptual distinction, Arriagada Cáceres (2021) and Mañalich (2021).

8 See also Guastini (1998, pp. 247-248).

A clarification on the formulations so far reported is needed. There is, in fact, a difference between Conte's and Guastini's formulations.

Conte refers to *imperativeness* and *indifference*: according to the [GEN Conte] a conduct that is not expressly qualified as imperative is indifferent (it is permitted and facultative); in other words, of a conduct that is not expressly qualified as imperative both commission and omission are permitted. Guastini refers to *prohibition* and *permission*: according to the [GEN Guastini], a conduct that is not expressly qualified as prohibited is permitted; in other words, of a conduct that is not expressly qualified as prohibited, the commission is permitted. I intend to clarify that, despite the only apparent asymmetry, the two notions are equivalent in establishing the completeness of a legal system. As it is well known, due to the interdefinability of the four deontic modalities obligatory, prohibited, permitted, facultative, each of them can be defined in terms of any of the other three deontic modalities.<sup>9</sup> According to the [GEN Conte], if wearing a blue suit is *neither prohibited nor obligatory* (i.e. if wearing a blue suit is *not imperative*), then wearing a blue suit is both *permitted and facultative* (i.e. then wearing a blue suit is *indifferent*). According to the [GEN Guastini], if wearing a blue suit is *not forbidden*, then wearing a blue suit is *permitted*; and if *omitting* to wear a blue suit is *not forbidden*, then *omitting* to wear a blue suit is *permitted*. As can be seen, both notions allow the same mechanism of completeness of legal systems. Saying that what is not forbidden is permitted and saying that what is not imperative is indifferent are equivalent formulations, because of the interdefinability of the deontic modalities.

Strictly speaking, it should be pointed out that Conte reconstructs, in addition to the one already mentioned, two other interesting notions of the general exclusive norm: (i) the general exclusive norm as *basic norm*; (ii) the general exclusive norm as prescription of the *argumentum e contrario* [appeal from the contrary]. The general exclusive norm as *basic norm* is formulated as follows:

These and only these are the valid norms; all and only valid norms are those that repeat their validity from the basic norm [*Grundnorm*]. Therefore, if these and only these are the obligations and prohibitions, in all other cases there is neither obligation nor prohibition, i.e. there are both permission and facultativity, i.e. there is indifference (Conte, 1997a, p. 158).

Let us label [GEN Conte basic norm] the notion of general exclusive norm defined above. However, Conte notices that this notion relies on the assumption that legal norms are all imperative (i.e. that there are no permissive norms), which is false. It is therefore necessary, Conte (1997a) argues, to redefine the general exclusive norm as a basic norm [*Grundnorm*] in this way: "These and only these are the obligations, these and only these are the prohibitions, these and only these are the indifferences" (p. 158). Yet, such a formulation, Conte argues, would lead to either incompleteness or inconsistency.

Another notion considered by Conte (1997a, p. 159) is the general exclusive norm as a *prescription* of the *argumentum e contrario* [appeal from the contrary, *Umkehrschluß*], i.e. a general norm that, in the case of a behaviour which is neither forbidden nor mandatory, *obliges* the interpreter to apply the *argumentum e contrario*. We will call it [GEN Conte argument]. According to the author, the [GEN Conte argument] is different from the [GEN Conte]. He holds that, of the two norms, only the latter establishes the completeness of the system, while the former leaves a behaviour which is neither forbidden nor mandatory without deontic

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<sup>9</sup> See Conte (1997a, pp. 83-85).

qualification:

*argumentum e contrario* does not state the deontic *status* of the unqualified behaviour [...]. From a norm which deontically qualifies a behaviour according to a deontic modality *D*, we can only derive that the unqualified behaviour is not *D*. [...] in other words, we only establish what the unqualified behaviour is *not*, but we ignore what the unqualified behaviour is (Conte, 1997a, p. 139).<sup>10</sup>

Someone may also raise a second (and independent) reason against the foundation of completeness through the [GEN Conte argument]: a general exclusive norm as a *prescription* of the *argumentum e contrario* would only prescribe to the interpreter to fill the gap, but would not provide itself a qualification to the unqualified behaviour. According to this possible objection, an unqualified behaviour would remain unqualified: the [GEN Conte argument] would consist merely of a *prescription* to the judicial authority. In short, it would not transform the unqualified conduct into a qualified conduct (making the legal system complete), but would (i) *maintain the unqualification* of the conduct, thus leaving the system incomplete, and (ii) *prescribe* to the judicial authority the application of the *argument e contrario*. In other terms: a general exclusive norm of this kind would not *qualify*, but would only *prescribe to qualify*. I think that this objection would not be tenable. Although in the literal wording of the two exclusive general rules there is *prima facie* a difference ([GEN Conte] seems to qualify immediately, [GEN Conte argument] seems to qualify mediately), the two formulations refer to the same mechanism: the first is formulated in *nomostatic* terms and does not mention the judge-interpreter, but it is clear that it is nevertheless addressed to the judge-interpreter; the second is formulated in *nomodynamic* terms and refers to the judge-interpreter, stating that he/she is bound to acquit the defendant in case a behaviour is not expressly qualified.

In any case, the central problem of the general exclusive norm, a problem that exists and is relevant to all the definitions set forth above, is the problem of its validity. On the one hand, some authors, such as Bulygin, Conte and Guastini, hold that its validity is not necessary. Since it is a rule of positive law, even when unexpressed, it is valid only in those legal systems in which it is positively in force.

Other authors (we have already considered Donati) maintain, on the other hand, that it is universally valid. Among these, Kelsen is the best known and most convinced assertors of its necessary (universal) validity. I shall devote more space to Kelsen, both because of the wide influence he has exerted on scholars and legal practitioners, and because, unlike Donati or other authors, he has set the exclusive general rule in a very systematic philosophical doctrine.

It has been said that Kelsen is a convinced proponent of the general exclusive norm. However, as we shall see in a moment, in *Reine Rechtslehre* he calls it “negative norm” [German: *negative Norm*], rather than “exclusive norm”. Kelsen introduces this notion before refuting the thesis of the existence of legal gaps. According to Kelsen there are no gaps since the legal system is complete, being endowed not only with the norm according to which one is obliged to a certain behaviour, but also with a “negative norm”, whereby one is free to do or not to do what one is not obliged to do. “*Diese negative Norm ist es, die in einer Entscheidung zur Anwendung*

## 2. The Problem of the Validity of the General Exclusive Norm

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<sup>10</sup> In Conte’s lexicon a “deontic *status*” of a behaviour is a configuration in which both the commission and the omission of the behaviour are qualified. Only three deontic *status* are possible: obligation, prohibition, facultativity.

*kommt, mit der ein Anspruch abgewiesen wird, der auf ein nicht zur Pflicht gemachtes Verhalten gerichtet ist*" (Kelsen, 2008, p. 110). As already said, Kelsen calls it a "negative norm", despite the fact that it is common ground that its content is that of a general exclusive norm and not that of the *negative Norm* as conceived by Zitelmann (1903).

Kelsen argues, consistently, that when someone affirms that there is a gap despite the fact that the legal system by means of the general exclusive norm qualifies all the cases not expressly regulated, he/she is doing so erroneously. He/she is making no longer a descriptive judgement (descriptive of the validity of norms that express obligations, prohibitions, permissions, faculties), but an axiological judgement: he/she is arguing that a given case which is not expressly regulated would deserve to have a deontic qualification other than that of indifferent.

When someone states that there is a gap, he/she is not actually referring to a proper gap (to an absence of regulation *tout court*), but to the absence of a desirable/fair regulation. There would be gap whenever, for a relevant case that is not explicitly regulated, it is considered desirable to regulate it explicitly, qualifying it in a way other than indifferent. For the sake of clarity, we might say that Kelsen's theory distinguishes between two senses of the term 'gap', which I propose to call *absolute gap* and *relative gap*. The absolute gap is the absence of any regulation for a case; the relative gap is the absence of a regulation for a case that, according to the interpreter, deserves to be regulated as not indifferent. In this sense, the relative gap is, precisely, relative to an ideal, desired regulation, relative to a transcendent (not transcendental) *Sollen*:<sup>11</sup> it is the distance between the positive regulation and an ideal, desired regulation.

The thesis of the non-existence of absolute gaps is reaffirmed, in a more articulate manner, in the second edition of the *Reine Rechtslehre*, where Kelsen analyses the traditional error of considering gaps to exist.

Going deeper, one can see that a 'gap' is only assumed to exist when the absence of such a legal norm is considered, by the body applying the law, to be indispensable from the point of view of legislative policy, and thus, for this legal-political reason, the body applying the law rejects the – albeit logically possible – application of the existing law, because it considers it to be unjust (Kelsen, 1960).

There is, says Kelsen, a discretionary power of the interpreter who for some forms of conduct (blowing a whistle five minutes before paying a tax, wearing a tailored suit, eating spaghetti *al dente*) does not see any gap (precisely because it seems right to him that they should be qualified as indifferent), whereas for other forms of conduct the interpreter does (precisely because it seems unjust to him/her that they are qualified as indifferent). The author also points out what we might call a second degree of discretion, which I believe to be, from a theoretical point of view, even more relevant: the application of the law may be considered unjust not only when the legal system does not contain an expressed general rule under which the concrete case may fall, but – says Kelsen – also when it does contain one. Why then do jurists or legal philosophers consider the interpreter more entitled not to follow the legal system in cases where there is no expressed norm than in cases where there is one? It could be objected to Kelsen that it is a question of legal certainty: in the first hypothesis (absence of an expressed rule) there is no certain law, in the second hypothesis (existence of an expressed rule) there is certain law. This is an objection to which it is rather easy to reply. Saying that in

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<sup>11</sup> For a discussion of the *Sollen* as a transcendental category see Colloca (2020), particularly Section 2.

the absence of an expressed general rule the law is uncertain is a *petitio principii*: it is to assume that the rule ‘what is not legally prohibited is legally permitted’ does not apply, which is precisely the matter of the discussion.

However, Kelsen’s gap theory rests on the assumption, which is neither proved nor argued, that an exclusive general norm is deontically valid in every positive legal system. This is the point we need to discuss. Indeed, if we do not take this assumption, then the question of the existence of absolute gaps becomes much more relevant. Kelsen’s theory of completeness relies on a precise conception of the legal system, which includes the thesis of the necessary validity (in and for every legal system) of the exclusive general norm. But it is precisely this thesis that needs to be discussed. The criticism I make of Kelsen is that he has derived (consistently, indeed analytically) the thesis of the non-existence of gaps simply by re-proposing analytically the content of the thesis of the validity (existence) of an exclusive general norm. The problem, it seems to me, has only been pushed backwards, to the grounds of the philosophical conception of legal systems.

To summarize, we can say that Kelsen’s position on the general exclusive norm (or principle of prohibition) consists of three main theses. *First thesis*: it is a deontically valid *norm*. *Second thesis*: it precludes the existence of gaps, i.e. *it establishes the completeness* of the legal system. *Third thesis*: it has *universal* deontic validity, i.e. it is valid in every legal system. As shown before, some authors have supported the first and second theses and denied the third thesis. Other authors have criticised Kelsen’s theory, also questioning the normative character itself of the exclusive general norm: for instance, Bulygin (2015) has held that “the principle ‘What is not legally prohibited is legally permitted’ (which is often used to maintain that all legal systems are necessarily complete) is [...] ambiguous” (p. 346). I reconstruct his argument thus: (i) The principle of prohibition ‘What is not legally prohibited is legally permitted’ can be understood as a proper *positive norm* or as a *norm-proposition*. (ii) If this principle is understood as a *positive norm*, then its existence is contingent: “it will exist only if and when it has been either issued by a legal authority or created by custom” (Bulygin, 2015, p. 346). (iii) If this principle is understood as a *norm-proposition*, the meaning of the term ‘permitted’ needs to be understood: (iii.i) it can simply mean ‘not prohibited’ (weak permission), and then the principle would tautologically state that what is not prohibited is not prohibited (i.e. that there is no rule forbidding it), and would be ‘analytically true but completely trivial’; (iii.ii) or it could mean ‘positively permitted’ (strong permission), and then the principle would state that what is not prohibited is positively permitted. (iv) But if it is a permission in the positive sense (strong permission) – Bulygin concludes – then this principle is false, because from the absence of a prohibition the validity of a permissive norm cannot be inferred.<sup>12</sup>

Bulygin’s conclusion is: “In short: *qua norm*, the principle of prohibition is contingent, *qua norm-proposition*, it is either vacuous or false. In no case can it support Kelsen’s thesis that legal systems are necessarily complete” (p. 346).<sup>13</sup>

I raise a criticism of Bulygin’s argument. An approach to the problem of the validity of the general exclusive norm that starts from the distinction between *norm* and *norm-proposition* is misleading. The norm-proposition just describes the validity (existence) of a norm (in this

### 3. On Bulygin’s Criticism

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<sup>12</sup> For further relevant discussions of the distinction between weak permission and strong permission see, among others, von Wright (1957), Navarro & Rodríguez (2014) and Carcaterra (2015).

<sup>13</sup> See also Alchourrón and Bulygin (1971).



case, of a general norm which permits all what is not forbidden by particular norms). If such norm exists in a legal system, the correspondent norm-proposition is true; if such norm does not exist in a legal system, the norm-proposition asserting its validity is false. The relevant question is not to determine whether the general exclusive norm is either a *norm* or a *norm-proposition*, but is to determine whether the general exclusive norm is either a *norm* or a *logical principle*: if one holds that it is a norm, then the norm-proposition asserting its validity is true for those legal system in which the general exclusive norm is in force; if one holds that it is a logical principle, he/she needs to prove that such logical principle applies to the validity of norms (and, mediately, to the truth of norm-propositions). Beyond my specific criticism, I agree with this Bulyginian thesis of the non-universality (or non-necessity) of the exclusive general rule as a valid norm.

From the mere absence of a prohibition we cannot infer the existence of a positive permissory norm. Whether or not such a positive permission exists in some given system is a purely contingent matter. (The principle of prohibition holds true only in one very special case: when the system happens to contain a general closure rule permitting all actions not prohibited by the system. The *nullum crimen sine lege* principle, which is characteristic of modern criminal law, would be an example of such a rule, but, again, whether or not any such rule exists is a contingent matter.) (Bulygin, 2015, p. 346).

Conte (1997a) holds the contingency of the validity of the [GEN Conte] saying: “The general exclusive norm<sup>14</sup> establishes the completeness for every behaviour, but not for every system. The foundation [of completeness] on the general exclusive norm undoubtedly holds for the legal systems where this norm is valid” (pp. 154-155).

Kelsen, on the one hand, when he speaks of the applicability of the rule of *logical* inference to judicial interpretation, brilliantly grasps that the question of the deontic validity of norms cannot be reduced to a question of logical inference: a legal norm, for the equation of validity and existence, is deontically valid if and only if it is, in fact, brought into existence in the legal system.<sup>15</sup> On the other hand, inconsistently, when he speaks of the qualification of conducts that no expressed norm qualifies as imperative, he seems to dissociate validity and existence, grounding the validity of the general exclusive norm on the logical principle of the excluded third. But the applicability of the *logical* principle of the excluded third to the validity of norms needs to be proved.

Whether these principles of logic apply to the validity of legal norms is not a problem of logic, but rather a problem of *meta-logic*.<sup>16</sup>

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<sup>14</sup> The [GEN Conte].

<sup>15</sup> On the application of logical principles to deontic validity and the equation between validity and existence see Conte (1998). For a discussion of Conte’s theory of validity and its development see Di Lucia & Passerini Glazel (2020).

<sup>16</sup> All the direct quotations by Bobbio, Conte, Donati, Guastini, Kelsen have been translated in English by me.

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# DOING JUSTICE TO SOLIDARITY: ON THE MORAL ROLE OF MUTUAL SUPPORT

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## abstract

*The value of solidarity, which implies mutual concern and support, is often conveyed in our everyday moral and political language. But what is its conceptual relationship with justice? Influential positions in this debate may argue for the opposition between the two concepts: justice is impartial and universal, while solidarity is partial and limited. The present paper aims to shortly explore a range of theories that may exemplify possible answers to this position, from communitarian and realist views, which ultimately confirm the opposition, to political solidarities, which claim an instrumental need for solidarity as a reaction to injustices. Special attention will be paid to Habermas's compatibilist account of solidarity as the "reverse side" of justice. The paper contends that a compelling answer should preserve the difference between the two spheres and the essential features of solidarity by also sketching a concept of solidarity as a social duty arising from our moral interdependence.*

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## keywords

*solidarity, justice, intersubjectivity, social duty, Jürgen Habermas*

**1. Justice or solidarity?**

Solidarity is a re-emerging concept. The term appears as widespread as it is nebulous, and it is often perceived as worn out and evasive. Solidarity is a very broad and multifaceted notion with multiple semantic layers and practical implications. Its ordinary meaning can refer to the idea of social cohesion, human brotherhood, compassion, or political alliance. Its uncertain meaning is not surprising since it is not unusual in moral and political philosophy for other key concepts, such as justice, freedom, or equality, to be “essentially contested” (Gallie, 1955-56). However, unlike freedom or equality, the ambiguity of solidarity is not related to a variety of competing theories. On the contrary, despite its centrality as a social concept and its omnipresence in the current public arena, solidarity “has seldom been the object of an elaborated theory” (Bayertz, 1999, p. 3). Notably, in his *A Theory of Justice*, John Rawls wrote that “[i]n comparison with liberty and equality, the idea of fraternity has had a lesser place in democratic theory” (Rawls, 1999, p. 90).<sup>1</sup>

However, in the past decades, many successful efforts have been made by scholars of moral and political theory to undertake a conceptual refinement of the idea of solidarity. The notion has been compared and often defined in contrast to other similar ideas or practices, such as charity, care and loyalty. *Charity* seems to be essentially a unilateral and hierarchical relation, whereas solidarity requires a joint action with shared fate, risks and goals (Sangiovanni, 2015). The idea of *care* can refer to a set of human relationships, often only personal and face-to-face ones, which involve exclusivity and gratuity; this can be the case of affective bonds among family members, love among partners and friendship. Finally, the concept of *loyalty* may also overlap with the idea of solidarity; both seem to be based on identification with a common cause (e.g., a nation, an institution, an idea), yet traditional loyalty might require and sometimes impose unconditional dedication and self-denial, which can go hand in hand with subordination (Jaeggi, 2001).

Many steps forward have also been made in classifying solidarity’s various uses and types, most notably in describing the different applications and contexts of mutual support, namely as an integrative force, a mechanism of social protection and a transformative practice in political conflicts (Scholz, 2008). According to this classification, solidarity can be employed for strengthening a community, ensuring social services for vulnerable people or fighting against someone or something in the name of social change. The scholars Barbara Prainsack

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1 In Rawls’s terminology, “fraternity” stands also for “solidarity” (Kolers, 2016, p. 2).

and Alena Buyx (2017) have also identified different social levels of mutual support and concern: *personal*, regarding face-to-face relations; *group-based*, involving collective actions; and *institutional*, requiring formal codes and regulations. Based on these various comparisons and classifications, solidarity might be reasonably defined as a symmetrical relation of mutual support and shared risk based on the recognition of a common cause.

Although significant progress can be detected in the study of the concept at the descriptive level, it is still unclear how to assess the practice of solidarity in normative terms. Morally speaking, solidarity may be perceived as a positive attitude that absorbs virtues such as co-responsibility, support, trust, and willingness to sacrifice. However, the history of the idea alone could suggest an original bond with inclusion, which is related to a constellation of modern principles, such as liberty, equality, and democracy (Stjernø, 2005). This historicist account, though, cannot entirely fulfil the task of justifying solidarity's intrinsic morality, as one would have to arbitrarily select empirical cases of "positive" solidarities and exclude others considered to be "negative." For instance, with regards to the period of the civil rights movement, one could arguably label as solidaristic only the union among black people and as non-soludaristic the actions of white supremacists. In reality, solidarity can also refer to attitudes and practices that are usually condemned, such as solidarity among terrorists or criminals and nationalist or particularistic alliances. A practice of solidarity among "peers" can also rely on morally unjust purposes, as forms of injustice can easily inform solidarity within a group against outsiders. Furthermore, risks and adversities do not necessarily imply that the most disadvantaged or oppressed groups are involved in solidarity; therefore, the adversity required by solidarity cannot be measured by an objective standard but by the real interest and intentions of the group (Blum, 2007, p. 69). It would also be circular for any argument to justify solidaristic relations in normative terms by referring to "human nature" or "human essence" if human nature has already been defined as solidaristic.<sup>2</sup> Hence, the value of solidarity has been described as a normatively dependent concept insofar as it is not inherently good (Forst, 2021). This means that notions of solidarity need to be integrated with other normative principles, such as justice, a notion of "good" or another substantive value.

Several scholars have pointed out how the relationship between solidarity and modern ethics is originally broken insofar as modern rationalist ethics has always looked at solidarity as an expression of supererogatory acts and particularistic obligations.<sup>3</sup> The undivided attention of rationalistic moral theories for universal principles recognizes only individuals, on one hand, and humanity as a whole, on the other (Bayertz, 1999). According to this reading, the obligations of solidarity exceed the requirements of morality insofar as they demand individuals to do certain things for others that they would not be required to do *for everyone*. However extensive and flexible, the boundaries of solidarity are limited (Heyd, 2007) as they involve a concrete "we," whereas universal justice, for instance, in a Kantian and deontological perspective, assumes as its criterion *the equal interest of all*. Thus, the oscillation between particularity and universality would not ensure a central role for solidarity in moral theory. In this regard, according to Kurt Bayertz (1999), as a moral and political idea, solidarity is "outmoded" in favour of contemporary theories of justice, and the concept of justice is preferred to that of solidarity even in the justification of social rights and fair distribution of

## 2. Morality and Solidarity

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2 Alternatively, there are those who, like David Wiggins (2009), argue that solidarity is a "proto-ethical virtue" – a modern name given to a phenomenon "as old as the hills" – which is present in all cultural contexts.

3 As Kurt Bayertz (1999, p. 26) has suggested: "Modern ethics has often underestimated the significance of this power of communities to form identities and shape corresponding obligations. One-sided concentration on universal rules and norms has forced 'solidarity' and the relevance of it and other group-specific obligations to take a back-seat."

goods and resources. Hence, its use might sound euphemistic or redundant as it would serve the same function in the just distribution of wealth (Reichlin, 2011). In Bayertz's (1999, p. 25) words:

Since there is no (longer?) reason to assume an existing perception of common ground, from which solidarity is known spontaneously to grow, it seems reasonable to deduce obligations to help from the principle of justice. Justice requires neither group-specific common ground nor emotional attachment, but is based instead on the distanced observation and the weighing up of competing claims from a neutral position.

Rawlsian theory of justice is the most prominent example of this move. Indeed, in his *A Theory of Justice*, Rawls (1999) does not justify the difference principle ("social and economic inequalities are to be to the greatest benefit of the least-advantaged members of society") based on the idea of "fraternity". Indeed, the role that Rawls assigns to fraternity is purely vicarious and symbolic – to ideally inspire and not ground the normative claims of the difference principle.<sup>4</sup> Accordingly, as Alessandro Ferrara (2008, p. ix) has claimed, "[e]fforts have been made, from time to time, to rescue fraternity as community or as solidarity but by and large the liberal-democratic pantheon only offers pride of place to the 'free and equal citizens,' and no one feels the need to add the adjective 'fraternal'."

Therefore, how should we conceive of the link between solidarity and justice to find a significant place for solidarity in a deontic moral theory? As Bayertz himself concludes, "the concept of solidarity is thus indispensable for a philosophy of morality and politics, if this is to pay justice to the true complexity of the moral conscience" (1999, p. 26). In this regard, in the following paragraphs, I aim to briefly compare some theoretical accounts that may offer various models for understanding the role of solidarity in relation to justice. What I intend to do here is draw on them as paradigmatic instances of what is a much more varied field of possibilities.<sup>5</sup> This way of proceeding is justified by the essay's aim, which is philosophical rather than historical. Based on this critical analysis, the thesis I intend to defend is that doing justice to solidarity means finding a place for it in moral theory without erasing its conceptual peculiarity or absolutizing its normative role.<sup>6</sup> Furthermore, the paper's characterization of solidarity as an eminently reciprocal relation makes the discussion of its moral nature slightly distinct from the debate on the morality of beneficence/benevolence intended as the individual's duty of assistance, i.e. the obligation to be helpful to others according to one's means without hoping for personal gain (Kant, 1797/1991, pp. 196-197 (393-394); Beauchamp, 2019).

2.1. *The Priority of Solidarity Over Justice: Communitarianism and Realist Theories*

First, it is possible to identify arguments that ultimately confirm the opposition between solidarity and justice.

According to communitarian theories, the very idea of justice is replaced by solidarity

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4 As Rawls (1999, p. 91) writes: "Once we accept it, we can associate the traditional ideas of liberty, equality, and fraternity with the democratic interpretation of the two principles of justice as follows: liberty corresponds to the first principle, equality to the idea of equality in the first principle together with equality of fair opportunity, and fraternity to the difference principle. [...] The other aspects of fraternity should not be forgotten, but the difference principle expresses its fundamental meaning from the standpoint of social justice."

5 For a more extensive analysis on these paradigms, although in Italian, see Volpe (2023a), chapters 3 and 4.

6 Indeed, it is necessary to refer here to the Rawlsian distinction between *concept* and *conception*, following which the *concept* of solidarity indicates the essential features of the term, while a *conception* is the moral interpretation of its role and features (Rawls, 1999, p. 5).

and by the role of communities in shaping loyalty among individuals. Communitarianism generally criticize individualism, according to which individuals should be interested only in pursuing their atomistic claims and interests and should not feel any responsibility for the needs of others. Notably, communitarians privilege aspects of the good life and “ethical” ties, drawing on Aristotle and Hegel. To recall the categories of Ferdinand Tönnies, the strong social cohesion of *Gemeinschaft* (community) is opposed to individualistic modern *Gesellschaft* (society) to which liberal models of justice refer. In this view, solidarity, rather than justice, comes “first and foremost” (Rippe, 1998, p. 360). Charles Taylor (1985), for example, defended the idea of an “obligation to belong” for those who are members of the same historical, cultural and linguistic community. Drawing on Ronald Dworkin’s (1989) critical examination of the forms of legitimacy of the community, we can identify at least four arguments in favour of a communitarian type of solidarity. The first one relates the community with the ethical choice of the majority, which is to be defended and preserved at the expense of the fair recognition of the choices of individuals. The second argument is the paternalistic one, according to which each citizen in a political community is responsible for the well-being of others and should therefore take steps to review the behaviour of those who are in some way “deviant.” The third argument condemns atomism, i.e. the idea of the complete self-sufficiency of individuals, and stresses how people need the community’s help on a material, intellectual and ethical level. The fourth argument of integration maintains that there is no real difference between the well-being of individuals in the community and that of the community itself.<sup>7</sup>

In short, communitarian approaches dwell on shared identity and co-belonging, thus rejecting a positive reference to the concept of justice.

Despite being far from communitarian views, political realist theories are also critical of a positive link between solidarity and justice. Realists may justify relations of mutual support, particularly in the face of emergencies and crises, based on strategic reasons and enlightened self-interest. These theories address a core element of solidarity, that is social cohesion and its role as a “stabilizing mechanism” of cooperation and problem-solving (Burelli, 2018). Risk sharing is oriented not to moral purposes but to strategic solutions for common difficulties and threats. Michael Hechter, for example, has offered a conception of social solidarity based on rational choice, arguing that solidarity is nothing more than a function of the dependence of individual members on the group: “[Solidarity] can be indicated by the proportion of private resources that each member is expected to contribute to collectively determined ends” (Hechter, 1987, pp. 17-18). Furthermore, instrumental views interpret mutual aid as a rational investment in the future, according to broad predictive rationality. These arguments can also be applied to the justification of solidarity as social protection against vulnerabilities, i.e. the idea of the welfare state. As Maurizio Ferrera (2005, p. 50) pointed out, “[t]he institutionalization of solidarity through social rights has effectively combated the disintegrative tendency of the nineteenth century’s greatest social utopia: that of a market entirely capable of self-regulation.” The expedient of state-organized solidarity is only to avoid massive imbalances and inequalities, which would threaten social and economic stability. This account of solidarity may accord with a result-oriented legitimacy, whereby institutions’ legitimacy may increase or decrease depending on their ability to build ties of solidarity with its subordinates and foster so-called “togetherness”.

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<sup>7</sup> Although the communitarian perspective insists on the priority of ethical ties, it does not necessarily lead to authoritarian or conservative outcomes; on the contrary, it can derive the resources for a progressive social critique from shared norms and values (Walzer, 1987).



Hence, realists rely on solidarity's integrative and problem-solving function without any reference to justice.

2.2. *A Joint Reaction to Injustice: Political Solidarities*

For other authors, the meaning of solidarity leads immediately to the experience of perceived *injustice* (Tava, 2023). Hannah Arendt, in her work *On Revolution* (1963), argued that solidarity does not derive from any positive or higher principle but from the experience of human suffering and how people, regardless of their identity or similarity, react to this experience by establishing "communities of interest." Similarly, in his book *Contingency, Irony, and Solidarity* (1989), Richard Rorty started from the aid given to Jews during the Second World War to sketch a theory of solidarity as a contingent act in response to human suffering. According to him, those who stood in solidarity with the persecuted did not do so because they saw Jews as fellow human beings; instead, they recognized their pain and humiliation. According to Rorty, the recognition of the shared pain and suffering of others precedes any positive conception of justice. On the contrary, as Rorty suggests, "our sense of solidarity is strongest when those with whom solidarity is expressed are thought of as 'one of us,' where 'us' means something smaller and more local than the human race" (1989, p. 191).

A more contemporary approach to political solidarity is proposed by Tommie Shelby (2005) in his book *We Who Are Dark: The Philosophical Foundations of Black Solidarity*. Shelby distinguishes two strands of black nationalism: "classic black nationalism" and "pragmatic black nationalism." The first strand refers to cohesion among people of colour based on a "thick" notion of *blackness*, whereby African Americans must unite in solidarity because they identify as black. Shelby rejects the classic variety in favour of pragmatic black nationalism, which is driven by reasons that transcend a shared "natural" identity and is only enacted in the name of justice. While essentialist approaches justify solidarity and racial pride on a common biological basis, the political solidarity promoted by Shelby is based on a common interest in opposing unjust treatment that *happens to be* due to a common "racial" trait.

Another recent variant is that of Avery Kolers, for whom solidarity is "the attitude that characterizes those who are engaged in collective political action" (2014, p. 425). For Kolers, solidarity should be based on the idea of *deference* to oppressed groups. The emphasis here is not on the common goal, as in the teleological approaches, but on the duty to aid those who suffer unfair situations. In this perspective, the duty of solidarity as equity, which arises from the need for fair treatment, is prioritized over justice, which is arguably understood only as distributive justice (for a criticism of this reductionism, see Forst, 2014).

Political solidarities are very diversified; ultimately, though, they share a common understanding of solidarity as a reaction to injustices and stress its conflictual and transformative dimension.<sup>8</sup> This antagonistic and political interpretation can thus be based on an infrastructural idea of solidarity as a powerful moral enabler, which is similar to other notions, such as trust, transparency or privacy – solidarity as a tool capable of mobilizing collective action and activating the perception of risks (Tava, 2021).

2.3. *The Reverse Side of Justice: Habermas's Account of Moral Complementarity*

Jürgen Habermas (1990) elaborated the thesis of the moral complementarity of justice and solidarity in an essay entitled *Justice and Solidarity: On the Discussion Concerning "Stage 6."* In it, Habermas discussed Lawrence Kohlberg's attempt to provide a place for others' welfare within the framework of ethical universalism and rationalism, in light of criticism from care ethics (Gilligan, 1982) and communitarians of the abstractness and individualism of

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<sup>8</sup> Unsurprisingly, Neo-Schmittian-leftist-populist tendencies also share this understanding; Chantal Mouffe (1995) described solidarity as "agonistic" based on "we-identity."

neo-Kantian ethics. For these critics, deontic views are atomistic and fail to appreciate the importance of communities, traditions, and relationships among concrete others. Kohlberg regards the development of individuals' moral consciousness as a learning process that happens through three levels and six stages of development, from a pre-conventional to a post-conventional stage. The sixth stage – the highest one – is characterized by universal principles of justice, the equality of human rights and respect for the dignity of human beings as individuals. Here, Kohlberg sees the concept of benevolence, which is deduced from equal respect, as the complement of universal justice for considering the welfare of concrete others (Kohlberg *et al.*, 1990). According to Habermas, however, the mistake of Kohlberg's theory is to consider the idea of benevolence as only referring to the well-being of individuals and not that of collectives. In other words, the perspective of benevolence is limited to describing a sympathetic relationship and, according to Habermas, should be replaced by solidarity as a co-original moral principle alongside justice:

Justice concerns the equal freedoms of unique and self-determining individuals, while solidarity concerns the welfare of consociates who are intimately linked in an intersubjectively shared form of life and thus also to the maintenance of the integrity of this form of life itself. Moral norms cannot protect one without the other: they cannot protect the equal rights and freedoms of the individual without protecting the welfare of one's fellow man and of the community to which the individuals belong. (Habermas, 1990, p. 244)

While preserving the difference between the two concepts, Habermas aims to think of the two spheres as “two aspects of the same thing” (Habermas, 1990, p. 244). Habermas's point is that morality should satisfy “two tasks” simultaneously in what we can call a division of moral labour. On one hand, morality ensures the dignity of individuals; on the other, it protects the welfare of community members. In other words, whereas justice safeguards the inviolability of each individual and the equal freedoms of irreplaceable autonomous individuals, solidarity protects the web of intersubjective relationships on which everyone depends. Consequently, according to Habermas's reading, solidarity is the “other side” or the “reverse side” of justice. In this way, he claims to avoid the one-sidedness of an account of justice as separate from social ties and that of conservative solidarity, which is exclusive and reduced to the unconditional protection of the community or to loyalty to authoritarian leadership (Habermas experienced this in his youth with the motto “Command us, Führer; we will follow you”). Of course, Habermas has also in mind the importance of solidarity as the “glue” holding together the bricks that compose the architecture of political institutions, since “the promotion of the universal rights of every human being cannot be dissociated from the protection of that peculiar way of living together that is the modern form of a democratic society” (Reichlin, 2011, p. 267).

The four accounts presented above describe different ways (positive or negative) of conceiving the link between solidarity and justice. Therefore, each of them emphasizes different facets of solidarity as a social practice: communitarian approaches dwell on shared identity and co-belonging; realists rely on solidarity's integrative and problem-solving function; the “reverse side” theory is based on the role of intersubjective welfare; and political theories underline solidarity's conflictual and transformative character.

Normatively speaking, while the communitarian and realist approaches reject a positive reference to the concept of justice (for quite different reasons), the theories of political solidarity look at perceived *injustices* as the fundamental justification for acting in solidarity.

**3. Doing Justice to Solidarity:  
Do Not Prioritize,  
Do Not Downsize**

In this way, political solidarity theories adopt either a teleological-instrumental or a negativist approach. However, if the former approach does not fully succeed in establishing a real balance between solidarity and justice, the latter requires the support of a theory of justice to assess whether the perceived injustices of the actors *are such*.<sup>9</sup> In contrast, Habermas's "reverse side" theory is more ambitious in attempting to grasp an immanent connection between justice and solidarity. It does not consider solidarity as a mere motivational resource nor as a reaction to perceived injustices but rather as a part of a "wider moral framework" (Held, 2006, p. 71) in which justice and solidarity perform different but complementary tasks. However, I recognize at least two weak spots in Habermas's argument.

First, although Habermas clarifies on a meta-ethical level why the concepts of justice and solidarity are complementary, it is not entirely clear based on which actual motives and practical principle the actors should act in solidarity. Indeed, the consistency that Habermas identifies between the universality of rights and the protection of the shared life form does not seem to go along with an explanation of *the actual moral phenomenon* that drives actors towards solidarity.

Second, the perspective of the "reverse side of justice" does not seem to include the variety of solidarity's forms and contexts. Habermas assigns to solidarity the exclusive function of protecting and fostering cohesion within society as a precondition for justice. But, as the other perspectives presented here suggest, solidarity indicates not only cohesion and social protection but also the transformation of social reality.<sup>10</sup>

Therefore, how is it possible to describe the concrete dynamic of solidarity as complementary to the idea of justice in plural social contexts?

**4. Toward a  
Development of  
the "Reverse Side"  
Theory:  
Mutual Support  
as a Social Duty**

Critical theory scholars, such as Nancy Fraser and Axel Honneth, have also engaged with Habermas's argument. They have attempted to elaborate conceptions of solidarity related to a broader framework of justice intended as an equal relationship between distribution and social recognition.

In particular, Fraser (1986) has developed a "discourse ethic of solidarity," whereby to challenge dominant discourses or interpretations, members of subordinate social groups unite in solidarity and recognize each other as preconditions of their ability to "participate on a par with members of other groups in moral and political deliberation" (p. 428). Fraser insists on the idea that compared to the concept of "care," which pertains to the individual concrete other, solidarity is best suited to a theory of justice that accounts for "the standpoint of the collective concrete other" (p. 428). In contrast, Honneth (1992), whose point of departure is a progressive and emancipatory interpretation of the Hegelian *Sittlichkeit* (ethical life), initially conceived of solidarity as a form of social recognition based on admiration and esteem. Later, he (2017) linked reciprocal support to the idea of "social freedom"; that is, a conception of freedom in which *Ego* sees *Alter* neither as an obstacle, according to negative freedom, nor as an abstract object of her impartial judgement, according to positive freedom, but rather as a precondition of her freedom – in terms of *intersubjective freedom* – in various social spheres.<sup>11</sup>

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9 As Kolers (2016, p. 174) ironically puts it, "not every downtrodden activist is Martin Luther King."

10 It is not by chance that Habermas has progressively abandoned his morally-based conception of solidarity to embrace a more realistic and political understanding (Habermas, 2013; Carrabregu, 2016; Volpe, 2023b). I argue that this conceptual redefinition is due to the difficulty of the "reverse side" theory in accounting for the concrete and multifaceted character of solidarity.

11 Notably, recalling Hegel and his peculiar idea of ethical life (*Sittlichkeit*), Honneth (2014) deduces social freedom from a very modern notion of social reality; that is, the spheres of affective relationships, markets and democratic institutions.

Besides the need to conceive of a “third” type of freedom beyond the twofold description famously offered by Isaiah Berlin (1969), both Fraser and Honneth stress the importance of concrete and objective social practices, either discursive or institutional, to permeate and complete the demands of justice and mutual recognition. Regarding the practices of solidarity, I would rather speak of a relational-interactive model of autonomy in which the individual is co-responsible and co-essential for the other’s dignity and autonomy. Most importantly, such a relational-interactive model of autonomy might suggest us a way of thinking about mutual support as based on a moral interdependence, according to this (tentative) general principle: *You and I recognize each other as practical preconditions of our autonomy, and we therefore ought to support each other, even by incurring significant costs.*

If the reciprocity of support is, descriptively, how the interests of others are intertwined with one’s own interests (Mason, 2000, p. 27), the principle of solidarity could normatively describe and assess relations of mutual aid and risk sharing informed by moral recognition. Thus understood, solidarity loses its character as a supererogatory action or a subsidiary relation within a theory of justice; instead, it becomes a social duty that arises from our moral interdependence. Here, the difference and co-originality of justice and solidarity are preserved, since normative integration does not mean conceptual assimilation (Ter Meulen, 2017, p. 107). Justice concerns equal respect and dignity grounded on one’s autonomy, while solidarity, in this view, concerns the necessary social practice of mutual support and concern that arises from the recognition of our moral interconnection, which in modern society profoundly depends on social interdependence (Durkheim, 1893/2013).<sup>12</sup> In the case of fundamental rights, for instance, it is one thing to normatively justify rights, including social rights (a justification that belongs to justice), and quite another to implement them, guarantee them and obtain them, even in situations of conflict, which is something that would pertain to solidarity. To recall Kant’s famous proverb, justice without solidarity and other forms of social coordination is blind and ineffective, while solidarity without justice is void and ends up being either a harmless “resilience” or an authoritarian/ethnocentric relation.

This tentative theoretical proposal, still to be properly developed, is to deepen the “reverse side” theory and expand it to the plurality of contexts and social purposes traditionally linked to solidarity, which the four accounts presented above have highlighted: a) The safeguarding and protection of the social environment as the precondition of the respect for personal and political rights; b) The implementation of welfare services and infrastructures designed to ensure social protection rights. This occurs when solidarity “solidifies” in institutional arrangements, as the expectation of reciprocity is realized through intermediary public institutions; c) The collective mobilization aimed at transforming and reforming institutions and, more generally, all those states of affairs where rights are threatened, i.e. arbitrary regimes. In all these various contexts, solidarity depends on the awareness of the moral interdependence that binds us to others. In this regard, the COVID-19 pandemic has been a powerful example of how the insight into solidarity as the “reverse side” of justice grasps the intimate connection and complementarity between mutual concern and respect for rights, including the rights to health and life. As Barbara Prainsack (2020, p. 130) has suggested:

Throughout the COVID-19 pandemic it has become abundantly clear that in countries where social security instruments and collective bargaining exists, more people are buffered from the worst effects of the crisis, and more will get through the crisis without

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<sup>12</sup> Such an understanding might shed light on the inner normative consistency of the French revolutionary credo: liberty and equality (justice), *plus* fraternity (solidarity).

losing their homes, incomes, and trust in government. [...] What the COVID-19 crisis has taught us so far is that the most resilient societies are not those that have the best technologies or most obedient citizens. It is those that have solidaristic institutions.

This emphasis on social coordination and mutual support is well suited not only to the discussion of the global measures taken against the pandemic, in which solidarity stood precariously in the middle of the conflict between security and freedom, but also to the current debates on the environmental and energy crises affecting Europe and the world.<sup>13</sup> The major challenge here is to keep together an effective response to these epochal issues and a reference to social justice. Therein lies the importance of the moral nature of solidarity.

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<sup>13</sup> Of course, much more theoretical development is needed in this direction, including on the geographical boundaries of solidaristic relations (Heyd, 2007). For reasons of space, I shall refer to Carol Gould’s (2007) idea of human solidarity as “limit notions” and “overlapping solidarity networks.”

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