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# APPEARANCE COUNTING AS REALITY? SOME CONSIDERATIONS ON STABILITY AND UNPREDICTABILITY IN SOCIAL INSTITUTIONS

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## abstract

*Social institutions are considered as generally stable entities but, at the same time, prone to unpredictable and even dramatical changes. The paper draws some considerations on this issue by means of an analysis of the notions of validity and objectivity, seen in the light of the critical situations that institutions may face. Consider the case of an irregular election that leads anyhow to a result accepted by authorities and population at large. Such an election seems to be valid and not valid at the same time. These contrasting intuitions reflect the twofold nature of institutional reality: it depends on one side on what is accepted by those who are dealing with it, but on the other side also on what it is actually going on according to its rules. The article frames this problem in terms of response-dependence. In this respect, it follows, but also expands, Hindriks (2006), to reach the conclusion that institutions are easily prone to fall apart. Anyway, not in all cases this actually happens; on the contrary, institutions seem to be quite stable. We propose that what makes them stable, but also unpredictable, is, in a sense, a sort of misunderstanding among the involved agents. Explaining such misunderstanding amounts to analyze the notion of objectivity in social reality. We argue that objectivity is more a requirement than a feature of institutional systems, being institutional objects mind and context-dependent.*

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## keywords

Validity, objectivity, crisis in institutions, stability, unpredictability

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Suppose a significant number of voters is voting in the wrong way. For example, they make marks on the ballots that compromise their secrecy. According to the rules, their vote is null. But, in order to be considered as null by the institution, these votes must be recognized as null by some other “relevant” people (poll watchers, judges of some court). Suppose that, for some reason, none of them recognize the violation and suppose, on top of this, that none of the voters realize that her/his vote was wrongly expressed by the poll; what we have here is a situation in which, from a god’s eye perspective, the entire election is null, but from the perspective of the considered group the election is valid. Valid, exactly because it appears to be valid.

The situation is somehow surreal, but it makes a point: institutional reality is twofold, but in a very peculiar way. There is a significant difference between what is really going on according to the rules and what is believed and accepted by those who are dealing with the institution. Nonetheless, what is believed and accepted is crucial in assessing what is really going on in the institution. As a further complication, we cannot avoid to use some strong sense of objectivity: in many situations we feel that it is important to know what actually happened according to the rules, as we want this to have an influence on our decisions.

What we would like to claim is that in the domain of social ontology somehow both views are not only needed but somehow inevitable to retain. If we lost the former, we would have to say that what is objective has no role in what is ontological in social reality, and then no subsequent discovery of error can have any role in establishing who won the elections, if we lost the latter we would end up saying that what is subjective is not relevant, undermining the very sense of social activities, including polls. Then, what is needed in order for such kinds of situations to be “fully” valid?

This seems to be a problem that is peculiar of the social domain, since apparently it does not apply, at least not in the same way, to contexts such as the natural one, or, to be more precise, to the so-called *mesoscopic level*: if we wrongly believe that “the cat is on the mat”, such belief has few effects on the actual position of the cat. On top of this, the example above seems to clearly belong to a subdomain of the social, that is the institutional one. Institutions,

as many have pointed out, depend, in order to exist, on rules that define some of their own relevant aspects; e.g., voting rules are essential for polls.

One of the main supporters of the latter view is certainly John Searle (1969, 1995, 2010); take as an instance his famous analysis of constitutive rules, that has generated an important field of studies. But one of the criticisms that has often been moved to Searle's account is that it is too centered on positive situations in which agents quickly agree and are successful in their cooperation, but is less effective when analyzing critical cases, cases as this one, that may be puzzling, but also revealing. To be completely honest, such criticism was only supported by a minority<sup>1</sup> of scholars and, in general, even if it seems obvious that we often face critical situations in our social and institutional activities, there is not much work carried out in analytic social ontology about this very fact.

Taking care of this “dark side” of social ontology is crucial, also because rules themselves may constitute a threat to the understanding of the ontology of the world they create. Aside of their misapplication, as in our poll case, contradictions or faults may be part of the rules themselves and this makes it difficult to assess what is valid in some specific institutional domain. One of the desired outcomes of this analysis is to establish some pillars in order to draw a link between these two dimensions (misapplication and faults in the rules), as these are important assets for the understanding of the dynamics of institutions. Our starting point will be the notion of acceptance-dependence as developed by Frank Hindriks, and especially the version he proposes of the concept *constitutional*. This analysis, complemented with our considerations about the “dark side”, will allow us to show some of those traits that make institutions so stable and, at the same time, so prone to sudden, unpredictable changes.

### 1. Acceptance Dependence (and its Dark Side)

There are many possible ways of conceptualizing the problem of acceptance in social ontology. An interesting and somehow new way to give a stronger grasp of the issue is by re-describing it in terms of the recently and widely debated notion of *response dependence*<sup>2</sup>. The term “response-dependent concept” was introduced by Mark Johnston, (1989, 146, footnote 8) and, in a nutshell, is aimed to capture the idea that there are concepts that are *intrinsically*, or *a-priori*, determined by our responses; they “are tailor-made for creatures like us

<sup>1</sup> For example (Balzer 2002) and (Schmid 2009).

<sup>2</sup> There are many theories around on this notion, for recent reviews of the literature see (Yates 2008) and (Gundersen 2010).

who are capable, as many intelligences may not be, of certain responses: capable of finding things smooth to the touch, bland to the taste, red to the eye”<sup>3</sup>. The classical example are colors<sup>4</sup>; something is **red** if and only if, in normal conditions, this very something is disposed to look this way to *normal* subjects. It is important to stress that the thing has to look red to a normal subject in normal conditions, since the idea is to have some kind of objectivity, supposing that all these conditions can be specified in a germane manner; that is, it is to select the conditions in a way “to ensure that no other circumstances could have given the judgment formed a greater credibility”<sup>5</sup>.

Frank Hidriks (2006) was perhaps among the first scholars who attempted to make a systematic link between sociality and response-dependence, by introducing the notion of *acceptance-dependence*. To this aim, he starts by considering Crispin Wright’s (1988, 1992) specific approach on the issue (called *judgement-dependence*), since he sees the latter as more similar to acceptance-dependence than any of the other available accounts. The main difference between the two approaches is that *judgement-dependent* concepts depend on counterfactual responses of individuals while, in contrast, *acceptance-dependent* concepts depend on the *actual* responses of *groups* of people. The counterfactual idea of judgment-dependence amounts to saying that the judgments of standard subjects under standard conditions are destined to be correct: something is *red* if and only if an idealized subject has the red-judgment in standard situations. Instead, if we take a social concept, for instance *popular*, we have to consider the *actual* responses by groups of people. In order to assess if the concept of *popular* applies to Ada, we have to see if Ada is *actually* liked by a relevant number of people, rather than trying to find out whether an idealized subject has the popular-judgment in standard circumstances. Another relevant difference is the *contextual character* of the notion of acceptance: being popular is something generally true with respect to some group of people, but false if referred to another.

Hidriks provides an interesting analysis of the concept *constitutional*, that we want to use as a scaffolding for the analysis of validity, as we mentioned in the introduction. But being *valid* in our sense is not necessarily being “legally valid in a specific legislation”; instead, we want our analysis to be more general, we want it to encompass what is decided as the final outcome of an election, even if we would like this outcome also to be taken into ac-

3 (Pettit 1991, 587).

4 Even if it has been argued that colors may be not response dependent, e.g. in (Johnston 1989), we will use them here just as illustration of the notion.

5 (Wright 1992, 109).

count in the analysis. The analysis of *constitutional* is therefore useful but, at the same time, it can not be sufficient to characterize our notion, since, at least as it is presented in Hindriks' account, it seems to mean something very similar to "legally valid in a specific legislation":

Hindriks' account moves from a criticism of Johnston's:

Johnston claims that constitutional is judgment-dependent and offers the following analysis:

*"Thus the concept of a US state or federal law's being constitutional is... the concept of the Supreme Court's not being disposed to ultimately regard it as unconstitutional. (Being constitutional is the default condition)" (1993, p. 104; emphasis in original). [...] Johnston's analysis is problematic because it is compatibility - or rather, incompatibility - with the constitution that matters, instead of what the Supreme Court is disposed to do. (Hindriks 2006, 486)*

As Hindriks remarks later, "constitutionality is fixed independently of what the Supreme Court is disposed to do" (Hindriks 2006, 487), it is what is written in the Constitution that marks the difference between what is and what is not constitutional. In this case, what makes something constitutional is anyway non-counterfactual, being constitutional something related to the citizens contextual and *actual* acceptance of the Constitution. *Actually* accepting the Constitution is, indirectly, providing *actual* criteria of constitutionality. Said that, he highlights another important point. There are problematic cases, where it is difficult to assess whether something is constitutional or not. In these cases the authority of the Supreme Court is what determines whether or not a law is constitutional. In these latter cases, anyway, actual rather than counterfactual responses are crucial for the application of the concept constitutional.

Now we move to consider Hindriks' definition of acceptance-dependence. In his paper he provides slightly different definitions of it, but the definition we are interested in is the one that is best suited for the concept constitutional:

[AD\*]  $x$  is  $F$  in context  $C$  in context  $C$  group  $G$  accepts a rule  $R$  or authority  $T$  has declared that a rule  $R$  is in force and according to this rule  $x$  is  $F$ . (Hindriks 2006, 492).

For Hindriks the formulation above "explicitates the relation between rules,

our actual responses, and concepts that depend on them in an indirect manner” (Hindriks 2006, 492), that is to say that it can be applied to the concept of constitutional, because it covers both the unproblematic cases with sets of accepted rules, when it is sufficient to refer to the Constitution (expressed in the first disjunct of the right part of the bi-conditional), and the problematic ones, when we have to recur to the authority of the Supreme Court (the second disjunct of the right part of the bi-conditional).

We believe that even if this analysis has its own merits of clarity and it is quite intuitive, it is not applicable to our case, namely to define the concept *valid*<sup>6</sup> that we would like to use in our analysis. The reason for such inapplicability is in the “or” in the right part of the bi-conditional. Let’s consider the poll example provided at the beginning of the paper. If Hindriks’ definition is correct, then we would not feel any problem in accepting the validity of the electoral outcome. The outcome is perhaps constitutional, but it is not “fully” valid, since what *actually* happened is against what has been fixed in the rules. In our intuition, in order to have “full” validity, what is fixed in the agreed rule and what comes as the final decision of the authority have to be in accordance, something like:  $x$  is *valid* in context  $C$  in context  $C$  group  $G$  accepts a rule  $R$  and authority  $T$  has declared that a rule  $R$  is in force and according to this rule  $x$  is valid.

This is to say that valid is a response-dependent concept with a “stricter” definition than the one of constitutional, since the disjunctive formulation implies the conjunctive: it holds, in principle, in less cases. What are the consequences of this line of reasoning? Validity for an institution is the very heart of the institution itself. An institution that is perceived as not valid is bound to failure, since the mismatch between what the rule, if significant, says and how it is applied, makes the whole system unable to coordinate people’s action and then no more acceptable for them. If, in the example above, everyone involved in the poll woke up and realized that the outcome of the election, established by authority, did not reflect what actually happened, then there are good chances that the whole system would fall apart. This is, we believe, something inherent to every institutional system and also, so to speak, one of its most problematic “dark sides”<sup>7</sup>.

6 Some of the criticisms that we will provide for valid hold also for constitutional, but we will not concentrate on them in this work, due to space limitations, but also because constitutional is not the focus of the paper, for reasons expressed earlier in this section.

7 There are other elements in this dark side; for example rules can be contradictory, as in the case of the Discursive Dilemma (List and Pettit 2004), but we will not deal with such elements in this paper.

This dichotomy between rule and authority manifests itself very often in the life of an institutional system, but anyway not in all cases everything falls apart. On the contrary, institutions seem to be quite stable<sup>8</sup>. We believe that what makes them stable, to put it in a provocative way, is *misunderstanding*.

2.  
Lack of  
Objectivity Makes  
Institutional  
Systems  
Stable, but  
Unpredictable

What we have established so far is that there is a certain requirement of objectivity of rules and their application. This is to say that, for some institutional entity to be considered as valid in the full sense, rules have to be correctly applied in accordance with what they say. Then, we suggested that breaking this link between rules and application is potentially harmful for the institutional system as a whole: if members of the community perceive that the system is not valid anymore, they cease to accept it and this will very likely make it fall apart, or will force a substantial change. Let us elaborate a bit on this to conclude, from the following considerations, that it is exactly because agents involved do not have a clear idea of what is going on in their institutions that institutions are generally stable and, at the same time, prone to unpredictably end up in critical situations.

Objectivity in our view is more a requirement than something that is effectively and always present in our institutional world. But before going into that, we have to illustrate why objectivity is important. The main reason is that what is believed can have a crucial effect on what is accepted. Acceptance and belief are often considered, by philosophers, as distinct<sup>9</sup>. Normally, you can cheat in a game only if I don't know that you are cheating. This is not entirely correct, since I can go on playing even if I believe that you are cheating. Among the various points made to support the distinction between belief and acceptance, (Cohen 1992) says something interesting: belief and acceptance differ in that acceptance arises from adopting a policy to achieve a particular goal. I accept that *p* if I have the policy of postulating that *p*. In our game, I can accept your cheating because I will gain some advantage by doing it, for example, I simply can be happy to let you win. If I accept your cheating, it means that what we both accept is the fact that we are playing regularly, but each one of us believe that the game is not valid, or, better, that it is not *fully* valid, since the cheating has not been declared<sup>10</sup> and accepted yet. But if I discover the cheat I *can* halt the game, in the sense that I have good arguments to make you accept, for example, that the game is null or that you ought to be sanctioned.

<sup>8</sup> This point is quite accepted in literature, from the first studies in sociology (Weber 1968) to the latest in philosophy of sociality (Searle 2010).

<sup>9</sup> For example (Cohen 1992), (Bratman 1999) and (Tuomela 2000).

<sup>10</sup> The underlying idea is that collective acceptance is carried out by means of declaratives. For some recent work on declaratives see (Searle 2010) and (Tuomela 2011).

There are other motivations that can force agents to declare the misapplication and try to convince the others to accept it and, then, to act accordingly. Aside malicious interests, one of the main motivations is the understanding of the fact that, in some cases, the misapplication could be harmful for coordination. For example, I can realize that my opponent is misapplying the rules in such a way that I do not know how to reply with another move. If I feel that I am in a deadlock and I cannot go on playing, we can say that I feel forced to declare the misapplication.

This is enough for arguing that objectivity, as we intended it here, plays a crucial role in institutional systems as a requirement. But this does not mean that this is also a necessary condition for an institutional system to be an institutional system, this just tells us that agents *can* use this requirement in order to make other agents accept that some misapplication has taken place and change their behavior accordingly.

For some theorists we have a sort of objectivity in our knowledge of social reality. The debate is very complex <sup>11</sup>, and we will suggest just two quick lines of attack to this position. The first line deals with the relationship between the ontological and the epistemological dimension.

According to Searle, the institutional reality is *ontologically subjective*, i.e. it depends, for its existence, on agents' mind. On a par with this thesis, we have the other one, namely that the institutional reality is also *epistemically objective*. This means that "it is, for example, an epistemically objective feature of this thing that it is a screwdriver; but that feature exists only relative to observers and users, and so the feature is ontologically subjective." (Searle 1995, 10).

We believe that this objectivity is not as firm as Searle would want it to be. The dependence of social entities on agents' minds, rules and their application makes things less objective than one could think and leaves room for misunderstandings or lack of proper knowledge of what is going on in the institutional system. To see it, let's go back to the comparison Searle makes with artifacts on one side, like screwdrivers, and social entities on

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11 See (Searle 1995, 2010), but (Thomasson 2003) has even a more extreme position on that. (Guala 2010) labels this position as infallibilism, meaning that, being social kinds a product of stipulation, then at least some (relevant) members of the community that makes such stipulation cannot be wrong about them: "we have certain forms of epistemic privilege with regard to our own institutional [...] kinds, protecting us from certain possibilities of ignorance and error (Thomasson 2003, 580)."

the other. Suppose we accept that there is something like “an objective feature” that allows us to classify this thing as a screwdriver. Nonetheless, screwdrivers can be used in different manners, not even imagined by the users and the creators of the screwdriver. This could happen in such a way as to make it difficult to recognize this thing as a screwdriver: it is so out of context that we cannot understand anymore what it is. This holds, in principle, for all the things we were willing to classify as screwdrivers, but, actually, these different uses pose a threat neither to the new nor to the old context. There is just a new concept for classifying things with the same old shape. This boils down to say that I can use the very same thing as a screwdriver and as a nail. But to deal with the institutional world is a different matter. Institutional entities have rules that concur to define them, we can say that the former have a content that establishes their use, since they are themselves made up of rules, not out of physical matter as screwdrivers. On top of this, they are related to a context of other rules and such context is much stricter. If we go out of the original context, there is always the possibility that we cannot understand what is the new application anymore, as we also suggested when talking about objectivity as a requirement and its role in coordination.

The second line of attack is that acceptance and belief have to be considered as spreading all over an institution, especially through the agents involved, who are, in the end, those that put social reality into existence. As we said for the chess example, each “move” of each agent involved in the institution has to be accepted by the other agents. But this means that in order to assess what is valid in the full sense and what is not, we should check every agent’s action, epistemic attitude and act of acceptance. Moreover, institutions as states have a huge amount of rules and dispositions and they perform, via their relevant members, a vast amount of institutional actions. It is then very likely to imagine that each agent has a limited amount of knowledge on what is going on in the institution.

How do members of an institution cope with this state of ignorance or misunderstanding? There are many possibilities that need to be explored, a tentative solution could be that they rely on trust. They somehow trust each other and the authority for the application and control of the application of the rules and for resolving difficult matters. But also authorities (as *relevant members*) have a limited, even if, maybe, greater, amount of knowledge of what is going on in the system, and they are also forced to trust the system. The fact that we trust that, at the end of the day, rules are more or less ap-

plied in the correct way, exactly because we don't have a precise way to establish it, is what makes institutions stable. But this can enhance the possibility, for some of the perviously mentioned reasons, of a serious divorce between rules and their application. Normally, this divorce has no dramatic effects on the institutional reality, as it is not even recognized by its members and agents tend to rely more on the application than on the rules themselves. We said also that the system is unpredictable for the same reasons. This is to remark how unlikely it is that the agents realize the effective status of the system, in this case that there is a problem in the rule-application axis. And also when they realize it, it could be that they have no interest in making this explicit or accepted. Even when explicitly accepted, they can be happy with it, meaning that it can have no interference with their policy. It is only when there is a convergence of this very complex chain of beliefs and acceptances with some specific crucial interests, like the need for coordination, that the system falls apart.

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