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The Nature of Social Reality

Edited by

Claudia Stancati
Alfredo Givigliano
Emanuele Fadda
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P U B L I S H I N G

The Nature of Social Reality,
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LANGUAGE

SOURCES AND BOUNDARIES
OF INSTITUTIONAL AND LINGUISTIC
NORMATIVITY:
TOWARDS A CRITICAL SOCIAL ONTOLOGY

FRANCESCA DI LORENZO AJELLO*

Introduction

In this essay, I aim at putting forward a development of a specific achievement of John R. Searle's speech acts theory and social ontology on the normative constraints built into the structure of mind and language, through an integration with Margaret Gilbert's notion of joint commitment (1989; 1996; 2006) and Jürgen Habermas' notion of illocutionary bind (1984), which leads to highlighting the critical role of collective recognition in both communicative and institutional practices. I want, more specifically, to develop a critical perspective on social ontology that prefigures the role of a special moral criterion of validity for all our acts—linguistic as well as institutional—that I identify as a criterion of fairness. I find some trace of it in John L. Austin's intuition of the role of justness as a criterion for the assessment of the felicity of advice, reprimands, and verdicts. However, unlike Austin, I aim to show that the criterion of fairness is not an analogue of truth, but an additional criterion independent of truth and which is valid for every type of act.

This is the theoretical background that gives me the tools to face an important problem arising from an influential tradition in our philosophical culture from Hegel to contemporary social ontology.

The key idea of this line of thought is that most of our reasons, duties, rights, and entitlements are always embedded in a life form rather than, as Kant thought, having to do with our dealing with "substantive moral principles." In Searle's words, they are specific to every type of speech act and arise from collective imposition of status functions. In Gilbert's words,

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they arise from our joint commitments.

But if so, how can we be rationally entitled to not accept what appears to us as unacceptable despite its institutional justifiability?

This is Adolf Eichmann's classic problem: Eichmann, working as an administrator of the Third Reich, sent many people to concentration camps. During the trial that concluded with a sentence of death, he justified his acts, claiming that he was just "following orders." He claimed that the blame should have been placed onto the political leaders who "abused his obedience" in a context where obedience was, among other things, "commended as a virtue"

(Adolf Eichmann Trial, <http://remember.org/eichmann/eichmann.htm> [accessed 12 December 2011]; cf. Arendt [1964] and Gilbert [forthcoming]).

The problem, in my view, is that Eichmann misunderstood his obedience to an unacceptable order as the fulfilment of a duty without taking into account the problem of the acceptability of the order in its consequences—certainly not only inferential consequences, as Robert B. Brandom (1994) thinks—that, according to the hypothesis that I will try to test here, is a moral issue that overrides the duty of obedience.

I will argue for this point through a stronger notion of "collective recognition," which presupposes the important role of a normative criterion of fairness when we have to criticize speech acts or the institutional, deontic power, whereas they are not legitimized for their capacity to respect human life and dignity. More specifically, I will argue for the cruciality and overriding character of a criterion of fairness on the basis of some examples provided by two famous Henrik Ibsen plays.

Finally, it will become easier to recognize an important ground for such a criterion of fairness in the logical requirement of generalization binding every reason for action in virtue of our nature as speaking animals. This is a requirement that can be derived from a deflationary reinterpretation of Kant's categorical imperative, which agreeing with Richard M. Hare (1952) and John R. Searle, can be stated as follows: every acceptance of a reason as a good reason for me is bound to the universalizability of the acceptance of those reasons as good for everyone in the same context. This rational bind to act in the interest of others gives us a good justification for the special criterion of fairness, which allows us to criticize or accept linguistic and institutional acts, overriding every other procedural condition.

A Model of Communicative and Institutional Practices: On the Sources of Linguistic and Institutional Normativity

To elucidate Eichmann's misunderstanding, I will consider this question in the more general context of duties, obligations, and commitments inherent in our roles as speech act performing and institutional beings: If we assume that there is a claim of being obeyed in every authoritative command, an obligation to keep a promise, and a commitment to truth in every assertion, how can we explain the fact that, in some cases, we can say that one should not have done what one actually did on the ground of these duties and obligations?

My starting point is Searle's achievement that we create deontology both by performing speech acts and by creating institutional reality through status function declarations (1995; 2010). According to this account, we create commitments, duties, and obligations in every speech act performance and we create collective deontology since, by declarations, we are able to assign status functions to entities that would not perform that function only in virtue of their physical structure. Thereby, we create rights, duties, and obligations.

In *Speech Acts*, Searle has shown the structure of constitutive rules underlying every performance of a speech act (1969). He distinguishes specifically, for each type of illocutionary act, four kinds of constitutive rules stating the essential, preparatory, sincerity, and propositional content conditions for the correct performance of the speech act.

So, for example, according to the essential rule, we create, in the case of assertions, a commitment to the truth of the asserted proposition. According to the preparatory rule, we are committed to have evidence and reasons for what we assert. According to the sincerity condition, we must believe the asserted proposition, and according to the propositional content rule, we assert a proposition *p*. Likewise, in the case of promises, for the essential rule, the utterances performed by the speakers (S) count as undertaking obligations to perform future acts (A). For the preparatory rule, A must be in the interest of the hearer (H) and the promisor will have to believe that it will be so; while for the sincerity condition, the promisor must intend to do A in the future and, for the propositional content rule, S utter sentences expressing propositions representing themselves as performing A. Finally, in the case of orders, for the essential rule, the utterance counts as an attempt on the part of S to get H to do A. For the preparatory rule, S must believe that H can do A and S must be entitled—that is, must have a special kind of authority over H—to order A to be done. Finally, for the

sincerity condition, S desires that H does A and for the propositional content rule S utters a sentence expressing a proposition representing H as performing A.

In this Searlean account, the obligations of the promise, like every other commitment inherent in speech acts (the commitment to the truth in the assertion or the commitment to the attempt to get the addressee to do something in the order or the request), are special types of obligations stemming from the constitutive rules underlying our speech acts. They are obligations that we, ourselves, create with the performance of our speech acts and that derive, ultimately, from the grammar of our speaking (Di Lorenzo Ajello 2003; cf. Searle 2006).

With all this in mind, it is easy to see my further important point regarding the fact that this structure of constitutive rules can be extended to institutional facts. So, let me compare a type of illocutionary act (the promise) with an institutional act such as that of creating an association for defending and improving the natural environment (see Table 1).

The constitutive act of association works as a status function declaration, creating and distributing the different status functions among the members. Once these status functions are collectively accepted, the relevant deontologies—rights, duties, obligations, and so on—will take place and give the participants desire-independent reasons for action. So, for example, the president of the association is *entitled* (has the *right*), once elected by the members, to legally represent the association in the external relationships with the political authorities and the rest of society; the president has the *obligation* to call the meetings of the administrative board or of the members' assembly at least once per month; the board and the assembly have the *right* to approve or reject the proposals of the president, and so on.

All of this also makes clear that the structure of institutional reality too, as a structure of constitutive rules, is strictly normative. This is an achievement—that the collective assignment of status function through constitutive rules sets up the normative framework that allows us to account for our ability to distinguish correct from incorrect ways of playing institutional games—which has recently become famous through the results of the empirical studies made by psychologists such as Michael Tomasello, Hannes Rakoczy, and colleagues on joint games of pretence in children from the second year on (Rakoczy H., Warneken F., and Tomasello M. 2009a; Rakoczy H., Brosche N., Warneken F., and Tomasello M. 2009b; Tomasello, 2008; Wyman E., Rakoczy H., and Tomasello M., 2009).

	TYPE OF ILLOCUTIONARY ACT	TYPE OF INSTITUTIONAL ACT
	Promise	Creating an association for defending and improving the natural environment
TYPE OF RULE		
PROPOSITIONAL CONTENT	Future act <i>A</i> of <i>S</i>	Future acts of the members for the reduction of environmental pollution, projects for recycling water and waste and for increasing the green, for prevention of fire, etc.
PREPARATORY	(1) <i>H</i> would prefer <i>S</i> 's doing <i>A</i> to his not doing <i>A</i> , and <i>S</i> believes <i>H</i> would prefer <i>S</i> 's doing <i>A</i> to his not doing <i>A</i> (2) It is not obvious to both <i>S</i> and <i>H</i> that <i>S</i> will do <i>A</i> in the normal course of events	(1) The intended actions will benefit the environment, the members will be able to carry them out, the actions must be objectively realizable, etc. (2) It is not obvious that the members of the association will do actions aimed at defending and improving the environment in the normal course of their life.
SINCERITY	<i>S</i> intends to do <i>A</i>	The members intend to do the relevant and appropriate actions for improving and defending the natural environment (it must be excluded that they can have economic benefits from increasing environmental pollution)
ESSENTIAL	<i>S</i> intends that the utterance of <i>T</i> will place him under an obligation to do <i>A</i>	The members intend that the creation of the association will place them under the obligation to do the appropriate actions.

Table 1

The interesting point for me regarding this achievement is that it brings us to shift the focus from the single speech act to the communicative game, agreeing with Habermas (1984, cf. Di Lorenzo Ajello, 2001b), and from the single assignment of status function to the institutional practices. With this perspective, it becomes easy to see how, when I assert that *p*, expressing my belief that *p*, not only do I intentionally bind myself to the truth of what I say and to provide reasons and evidence for truth etc., but that I also aim at binding the addressee to take a critical stand on the validity claims advanced with the speech act; that is, on the ground of the assessment of my reasons to say what I say. Every partner in the practice of giving and asking for reasons is bound to the acceptance, refusal, or dis-

proof of the truth, sincerity, and legitimacy of what I say, and to the articulation of his/her reasons for acceptance or disproof. In my perspective (cf. Di Lorenzo Ajello 2008 and 2010), the communication of my representations of the world aims not only at the hearer's understanding of the meaning of what I say, but also at getting the hearer to take a stand (accepting, refusing, disproving) in order to reach an agreement.

So far, we have found a model of communicative interaction that looks at the partners of communicative games as cooperative agents committed to take a stand on the validity claims advanced with every performance of speech acts. The mutual exchange of questions and answers concerning reasons aims at the rational agreement on the speech act offer at issue, to a joint commitment—as Gilbert would say—between speakers and their partners on the acceptability of beliefs and other mental states communicated in order to rule and coherently coordinate their actions. Collective recognition of the validity claims advanced by the speaker, then, plays a crucial role in communicative games.

Likewise, shifting the focus from the act of assigning a status function to institutional practices, we can see how the mutual and public expression of the relevant plans and decisions via appropriate speech acts and the public performance of institutional acts aim at creating joint commitments constraining the participants to act accordingly in the future. The normative structure of our institutions also allows us to criticize plans, decisions, and actions on the grounds of the rules governing the institutions. So it is possible to criticize the members of the association for omission, negligence, or incoherence with respect to the acts stated in the propositional content rule. For the preparatory rule, the members can be criticized if they are not able to carry out the intended actions or if their decisions and plans are not readily realizable; while the members can be criticized for the essential rule if they do not recognize their commitment to do the appropriate actions. For the sincerity rule, they can be criticized if they do not have the relevant mental states.

All of this enables us to make explicit the crucial role of collective recognition in every linguistic and institutional act. Taking a stand on the validity claims inherent in every institutional practice means giving reasons for one's positions and asking for reasons from others. This mutual exchange of questions and answers aims to coordinate and rule one's actions.

Boundaries of Institutional and Linguistic Normativity: An Overriding Criterion of Fairness

Starting from these achievements, I want to present my specific intuitive point by trying to face Eichmann's problem with the account now stated in terms of procedural constitutive rules.

In fact, procedural rules like those governing illocutionary acts and institutions could seem sufficient to introduce the normative dimension of collective recognition, which could allow us to answer Eichmann's problem. According to this account, in fact, since every speaker is bound to take a stand on the validity claims of every speech act; then even Eichmann was bound to take a stand on the validity claims raised by his commanders with their orders.

My intuitive point, however, is that, in order to answer the problem, this kind of procedural normativity is not sufficient.

I will argue for this point by showing the reasons for an integration of our set of constitutive rules with a normative criterion of fairness endowed with an overriding character on procedural constitutive rules and criteria.

My thesis is that, without this moral criterion, we could legitimize a threat or a command if the speaker has sufficient power or authority to enact it. We could also legitimize assertions for which the speaker has sufficient evidence, although the assertion could have bad consequences or hurt the addressee. A lie, on the contrary, could never be justified, even if it is useful to avoid humiliation or pain to the addressee. We could also legitimize an institution even if it violates human dignity.

These are, in my view, examples of the more general problem concerning the relationship between human reason and its institutional context that we are facing here: If human reason is embedded in our particular life forms, how can we be rationally entitled to not accept what appears to us as unacceptable despite its institutional justifiability?

In order to show the necessity of such a criterion of fairness, I will argue on the basis of some counterexamples that show the incompleteness of a purely procedural account of linguistic and institutional normativity.

We can find two objections to the adequacy of such a procedural normativity underlying our communicative exchanges and institutional practices in two famous plays by Henrik Ibsen, *Wild Duck* and *A Doll's House*. The first, *Wild Duck*, represents the possible negative effects of an application of the commitment to truth that does not take into account its consequences on the specific contexts of application. Gregers Werle, one of the protagonists, decides to tell his old friend Hjalmar Ekdal the truth about the Ekdals. He reveals him that little Hedvig Ekdal is the daughter of Gre-

gers' father, who also finances the Ekdals. Certainly Gregers is entitled to tell this truth since he has proof for it. But in revealing that his apparent happiness is grounded on lies, he causes catastrophic consequences. The revelation, made in the name of the absolute ideal of truth, causes the destruction of the family. Hedvig, disowned by Hjalmar, eventually commits suicide.

Wild Duck claims, then, an additional legitimacy criterion for saying that Gregers was not right in saying the truth even though he had proof, which ostensibly entitled him to say what he said.

That this is the intention of the play is very clear in a dialogue between Gregers and his friend Relling (1980, pp. 201–202), where the latter calls Gregers' need to tell the truth a “tiresome rash of righteousness,” and scolds Gregers that he is always in a “delirium of hero-worship.”

In the play, Gregers' commitment to truth (what he calls “the claim of the ideal”) assumes a pathological nature insofar as this commitment does not take into account the problem of the fairness of saying the truth. Ibsen's play, then, claims an additional legitimacy criterion, complementing and overriding procedural reasons, such as the criterion of fairness.

The second Ibsen play, *A Doll's House*, also claims the right to depart from the commitment to truth in some special contexts, showing this commitment as subject to the moral duty to preserve life and avoid pain and humiliation. The play is also significant where it makes explicit the claim that desire-independent reasons for actions deriving from institutions such as marriage, family, and parenthood must also be assessed for their capacity to respect the dignity of person of every human being.

Nora, the wife-doll of the play, falsified her dying father's signature to allow her husband Helmer Torvald to pay for medical care, which saved his life. Unaware of this fact, Helmer keeps treating his wife as a doll; that is, not as a person, but as an object, though valuable and fragile, that must be protected and cared for.

Once Helmer discovers the truth, fearing the possibility of blackmail, he accuses Nora of being “a hypocrite, a liar, worse than that, a criminal!” (1998, p. 75). But he is ready to forgive her when he learns that there will be no blackmail. However, she, finally aware of having been treated as a doll and not recognized as a person, understands the priority of her duty to realize herself as an individual with respect to her institutional duties as wife and mother; for this reason, she decides to break the marriage in order to have a new opportunity to educate herself and to become, finally, an individual endowed with all the moral integrity of a person, after having been treated as a doll for her entire life.

To Helmer, who reminds Nora of her duties and obligations as being

first of all a wife and mother, Nora answers:

That I don't believe any more. I believe that first and foremost I am an individual, just as much as you are—or at least I am going to try to be. I know most people agree with you, Torvald, and that's also what it says in books. But I'm not content any more with what most people say, or with what it says in books. I have to think things out of myself, and get things clear. (Ivi., p. 82)

This drama, then, claims everyone's right to personal self-realization and self-determination, and the overriding character of these rights over the obligations and duties deriving from institutions and, more specifically in the example, from marriage. In my view, the general theoretical point that emerges here is that the goal of institutions in general is to promote the good life of everyone, allowing individual self-realization, and therefore, that collective recognition should be withdrawn where this condition is not satisfied (Di Lorenzo Ajello, 2001a; 2004; cf. Nussbaum, 2000).

In fact, Nora declares that she does not understand how it is possible that the particular law she violated by falsifying her father's signature can be a right law:

I've also learnt that the law is different from what I thought; but I simply can't get it into my head that that particular law is right. Apparently a woman has no right to spare her old father on his deathbed, or to save her husband's life, even. I just don't believe it. (Ibsen, 1998, p. 83)

The play, then, also claims, as a criterion to assess the fairness of a law, its capacity to respect some important human rights that Nora claims for herself, such as the "right to spare her old father on his deathbed, or to save her husband's life"; that is, the right to take care of the life and well-being of the others.

Both of these Ibsen plays claim for a moral criterion of fairness in the assessment of our acts, also highlighting the overriding character of fairness over other validity criteria, such as truth. It is easy to see through Ibsen's plays, now, that this criterion involves that we have to take into account the consequences of our linguistic and institutional acts for the life of people and for their right to self-realization.

I hypothesize that the moral criterion of fairness here presented, endowed with an overriding character on procedural validity criteria, can be better understood in terms of the difference between "being entitled to say something" and "being right in saying it." It is easy to see the connection of this criterion with another criterion, which Austin referred to as the cri-

terion of felicity of the performative.

In *Performative-Constativ* (1971), when trying to show that it is not possible to consider an advice or a verdict as successful when they are merely carried out, Austin identified an analogue of the truth for advices and verdicts in their goodness and fairness respectively. He wrote: “Allowing that, in declaring the accused guilty, you have reached your verdict properly and in good faith, it still remains to ask whether the verdict was just, or fair.” Likewise for reprimands he noted, “Allowing that you had the right to reprimand him as you did, and that you have acted without malice, one can still ask whether the reprimand was deserved” (ivi., pp. 20–21; cf. 1962, pp. 141–42).

The account that I have proposed here brings me to agree with Austin that it is not sufficient that I be entitled to issue a verdict for the verdict to be a good one. Likewise, it is not sufficient for the felicity of an advice that it is successful when carried out. However, unlike him, I claim that this additional criterion of fairness of the verdict is not reducible to conditions of satisfaction such as truth, but consists rather in the acceptability of the consequences of what we say and do for the life and well-being of people.

My account claims, then, for a more complex articulation of those preparatory conditions the content of which is too narrow in a purely procedural interpretation of it and that should include a normative criterion of fairness.

Instead, it seems to me that Habermas does not take this need into account when, in his “Comments on John Searle,” among the possible confutations of a promise of the type “I promise you to give Y the required sum of money,” he does not include its being criticisable on the basis of the possible consequences that possession of the sum in question could have for its recipient (1991, pp. 24–26). I could, in fact, reject it, as Habermas writes, by saying:

“No, you are much too unreliable in such things.”

“No, you don’t really mean what you say.”

“No, this is not going to happen.”

but also objecting:

“It is not right for you to do it, not only because you don’t owe him this money but also because he would make bad use of it.”

The Logical requirement of Generalization as a Ground for the Overriding Criterion of Fairness

I find another important ground for such a criterion of fairness in the logical requirement of generalization binding every reason for action. This requirement can be derived from a deflationary reinterpretation of Kant's categorical imperative that, agreeing with Hare (1952) and Searle (2001; cf. Di Lorenzo Ajello 2009), can be stated as follows: every acceptance of a reason as a good reason for me is bound to the universalizability of the acceptance of that reason as good for everyone in the same context. Every speech act and every reason for action would be, then, constrained by a logical requirement of generalization, which would lead us to be rationally bound to act in the interest of others.

More specifically, Searle appeals to the generality constraints under which human will would also be posed, deriving the requirement for every rational subject to "treat other people as [his] equals" (2001, p. 151).

This point, according to which language commits us to a generality requirement, allows Searle to express the Kantian moral imperative in semantic terms. Searle notes, "When I say 'That is a man,' I am committed to the claim that any entity exactly like that in the relevant respects is also correctly describable as 'a man'" (ivi., p. 159).

Reformulated in Kantian terms, Searle's semantic-categorical imperative is as follows:

When you make an assertion of the form *a* is F, rationality requires that you be able to will that everyone in a similar situation should assert that *a* is F . . . Any user of language, in the Kantian formulation—he writes—, has to be able to will a universal law of its application to relevantly similar cases (*Ibidem*).

It is by virtue of such a wider logical basis of the categorical imperative that it becomes possible to go from the narrow logical-linguistic formulation, "any assertion by a speaker S of the form *a* is F commits S to a universal generalization: for any x, if x is relevantly type-identical with *a* then x is correctly described as 'F'" (ibid., p. 160), to the application of the generality requirement to:

(1) other people, so that,

if I am committed to recognizing similar instances as also cases of men, my commitment in a public language requires that I think other people ought also to recognize this and similar cases as cases of men (*Ibidem*);

and

(2) reasons for action, so that,

“if I think that my need to assuage my pain is a good reason for the others help me [...] that in the same situation where the pronouns are reversed, I am bound to recognize that I have a reason for helping them” (*Ibidem*, p. 161).

It is by virtue of this logical and natural extension to reasons for action that the generality requirement built in the structure of language would constrain us to act in the interest of the others.

So, we can propose a reformulation in logical and minimalist terms of Kant’s categorical imperative by way of the concept of “commitment” to recognize that what seems to me to be a good reason for another to act altruistically *toward me* must also require me to act altruistically *for another*.

Constraints as such require us to be open to others’ reasons and to assume a critical position with respect to any social requirement that can be rationally unacceptable in the intersubjective context. Then, we can look at the generality requirement as a good ground for recurring to the normative criterion of fairness among the conditions for the normative validity of every action, linguistic or not, as an act that can be right or wrong not only for procedural reasons.

Conclusion

If my hypothesis, that we can have a normative criterion of fairness for the assessment of human acts, linguistic and institutional, is correct, then I can now answer Eichmann’s problem by saying that the more fundamental criterion of fairness overcomes the duty to obey an order. We could also say, in other words, that even though we cannot disregard the procedural duty to take into account the entitlements of the commanders, we also have to recognize the priority of our duty and right to assess the fairness of every particular command.

Coming to agree with John Rawls (1971) on the priority of a criterion of fairness and its overriding character on other procedural criteria, we can then work on these grounds not only for a discourse ethics (Habermas, 1990), but also for an ethics of institutions.

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Searle's theory of social reality is increasingly meeting with worldwide recognition, and is undoubtedly the most prominent theory of social ontology (at least in the post-analytical tradition), even if actual research in this domain is engaged in critical confrontation with it. Searle's approach continues to shape the debate, but his construction is more and more sharply dissected, both in its details and in its general assumptions. Furthermore, new perspectives, not rooted in the analytical tradition, are taking place, so that not only alternative answers, but alternative questions are arising.

This book posits that we should approach the issue from another angle, and that we should retrace the origins of such a concept in order to gain a different, and possibly more interesting, perspective.

Are we able to delineate some issues that represent what we think the next development of these core problems could be? This book proposes three possible routes. Firstly, the necessity to account for, but not to relegate the object of social ontology only inside an analysis of language in which Social Objects arise and by which they are described and put under debate. Secondly, the necessity not to consider social sciences (from law studies to sociology, from political analysis to historical and widely philosophical instances) merely as derived products of the reflections about language. Thirdly, by resuming the first two issues and synthesizing them, we can debate the number of realities in question and their natures themselves.

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