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Rules and Types

Summary

1. Type *vs.* token
2. *Cognitive type vs. normative type*
3. *Negative atypicality vs. privative atypicality*

1. Type *vs.* token

1.1. Every good chess player studies with great attention the moves of the other player.

He studies *each* of them in order to elaborate an adequate strategy to win the match.

But there are philosophers, too, that study the moves of chess: particularly, the theorists of constitutive rules.

They both study chess moves, but they do that in two different ways, on two different levels.

- (i) The chess player studies the moves which are played in a particular match: he studies the *tokens* of chess-moves which are instantiated in that match.
- (ii) On the contrary, the theorist of constitutive rules studies, more generally, the *types* of moves which are constituted by the rules of chess.

Something similar happens in law.

The legal theorist studies the types of contracts and juridical acts as *types* which can be instantiated (with their peculiar effects) in a legal system.

The judge studies a particular contract or a particular act as *tokens* of a type, to see if they fit the type, and if they are thus apt to produce their effects.

1.2. The paradigm “*type vs. token*” has been proposed by the American philosopher Charles Sanders Peirce.

An illustration of the paradigm may be the following.

In the full name of Charles Sanders Peirce there are three *tokens* of the letter ‘e’: every *token* is an occurrence, an instantiation of the *type of letter*: ‘e’ (a *type* of letter of English alphabet).

Similarly, there is only one *type* of move in chess which is called ???, but there can be an indefinite number of *tokens* of it, as well as there can be an indefinite number of *tokens* of the *type* of contract which is called “rental”.

1.3. What is a type?

And which is the relation between a *type* and its *tokens*?

These questions are crucial in many fields of philosophical research (but yet there are no definitive answers to them).

- (i) They are crucial, for instance, as Richard Wollheim stressed, in *ontology of art works*: What kind of entity is an art work such as Beethoven’s Fifth Symphony? What, exactly, did Beethoven create? And what is Joyce’s *Ulysses*? Which is the relation between the *Ulysses* Joyce created and my copy of the *Ulysses*?
- (ii) They are crucial in *legal theory*: What kind of relation is the relation between the *type* of contract “rental”, and a particular contract by which John rents a

car? Which is the relation between the *type* of act “promise” and the particular promise I made to professor Di Lucia to give him back a particular book within a few days?

- (iii) They are crucial in *philosophy of institutional phenomena* and in *social ontology* (Znamierowski’s *ontologia społeczna*): Which is the relation between a single 10 slotych banknote and the type “10 slotych banknote”?
- (iv) They are crucial in *constitutive rules theory*: Which is the relation between constitutive rules and the phenomena which they are rules of? Which is the relation between (eidetic-constitutive) rules of chess and the moves of chess game? And which is the relation between (eidetic-constitutive) rules of chess and the individual moves of a chess play? What exactly is constituted by eidetic-constitutive rules: is it the *tokens* or the *types*?¹

1.4. An answer to the last question (What exactly is constituted by eidetic-constitutive rules: is it the *tokens* or the *types*?), if I have correctly understood Amedeo G. Conte, should be that (eidetic-)constitutive rules constitute the *type*, the existence of which is a necessary condition of any instantiation (every *token*) of it.

Conte writes:

‘Il pedone deve muoversi in linea retta’ è una regola *eidetico-costitutiva* sul pedone (*pawn*). Essa è condizione necessaria di quel praxema (la mossa del pedone) che essa qualifica deonticamente: se questa regola non vi fosse non esisterebbe il *type*, l’*eidōs* di quell’atto, e pertanto non sarebbe possibile la commissione di esso. (Non può esservi *token* di ciò di cui non vi sia *type*).²

‘Pawn moves [shall move] in a straight line’ is an *eidetic-constitutive rule* on pawn. It is a necessary condition of that praxeme (the move of the pawn) which is deontically qualified by it: shouldn’t this rule exist, even the *type*, the *eidōs* of that act wouldn’t exist, and thus no instantiation of it would be possible. (Of what there is no *type*, there can be no *token*).

It is obvious, in fact, that rules of chess concern the types of moves, and not directly the tokens.

¹ They are crucial in *phonology*, too: Which is the relation between a particular, individual sound (studied in *phonetics*) and the phoneme |ε| (studied in *phonology*)?

² Amedeo G. Conte, *Paradigmi d’analisi della regola in Wittgenstein*, 1983, ²1995, p. 297.

2. Cognitive type vs. normative type

2.1. According to constitutive rules theory, an individual move in a chess play is a *token* of the *type* “pawn’s move” only if it *fits* the *type* “pawn’s move” (which is determined by eidetic-constitutive rules of chess).

In other terms, the concrete reality (i.e. the *token*) has to *fit* the *type* in order to be a *token* of that *type*.

According to Anscombe’s and Searle’s concept of “*direction of fit*”, in the case of a type constituted by constitutive rules, the direction of fit goes from reality to the type: that is, reality has to fit the type in order to be a token of that type.

It may seem obvious.

Nonetheless, it is not always like that.

It is not always *reality* which has to fit types: sometimes *types* are to fit reality.

2.2. Let’s think of a different kind of *type*: a type which is used to classify natural phenomena, such as the type of animal “wolf”.

When we define the type of animal “wolf”, we determine which characteristics are specific to wolves and differ from similar kinds of animals such as dogs or foxes.

The type “wolf” which we create has to fit the actual, the real characteristics of wolves: in this case, it is the *type* which has to fit reality, not the contrary.

The direction of fit now goes from *reality* to *types*.

2.3. So, I will draw a distinction between *cognitive* types and *normative* types.

- (i) *Cognitive* types are types which have the function of *describing* what reality is like: their *direction of fit* goes from types to reality. E.g.: the type of animal “wolf”.
- (ii) *Normative* types are types which have the function to determine what reality should be like in order to produce certain effects (or to “count as Y, in context C”): their *direction of fit* goes from reality to types. E.g.: the type of event of football game “goal”.

Types which are constituted by constitutive rules, as well as types of legal acts or types of other institutional phenomena, such as money or promising, are all examples of *normative* types.

On the contrary, types which are used to classify natural phenomena, such as types of birds or types of rocks, are examples of *cognitive* types.

2.4. The distinction between *cognitive* types and *normative* types seems to be very important in philosophy of institutional phenomena and in social ontology.

It is, indeed, only in virtue of fitting a (normative) type of an institutional act, for example, that a token of that type produces the typical effects of that type of act.

It is only in virtue of fitting the (normative) type of contract “rental” that a particular contract produces the legal effects of renting.

And it is only in virtue of fitting the (normative) type of event of football “goal” that a particular event in a football match makes a particular team win a match.

In other terms: the institutional effects of an act or a fact are produced *through* the instantiation of a token of that act or event, but *in virtue of* its type.

This applies as well to Znamierowski’s concept of “akt tetycny”.

Znamierowski writes:

It is impossible to donate a horse to somebody, without a rule that institutes property and the act of donation.³

Furthermore, it is only in virtue of fitting the (normative) type “10 slotych banknote” that a particular piece of paper has the value of (counts as) 10 slotych.

A 17 slotych banknote wouldn’t be a banknote at all.

3. *Negative atypicality vs. privative atypicality*

3.1. At the end of paragraph 2. (*Cognitive type vs. normative type*), I said that a 17 slotych banknote wouldn’t be a banknote at all.

This is the phenomenon which I propose to call “*negative atypicality*”.

Negative atypicality is the atypicality which consists in the absence of a type.

Given a definite number of (normative) types, a phenomenon which doesn’t fit any of those types is negatively atypical: it cannot be considered a *token* of any *type* at all.

Examples of *negative atypicality* are:

- (i) an hypothetical 17 slotych banknote;
- (ii) an hypothetical goal in chess game.

3.2. A different phenomenon is the phenomenon of “*privative atypicality*”.

Privative atypicality is the atypicality which consists in a partial reduction (a diminution) of the conformity to a type. The *token* is still a *token* of a specific *type*, but it is in some way *less typical* than other tokens of the same type.

In this case, it is possible to speak of an atypical *token* of a *type*.

Examples of *privative atypicality* are:

- (i) a rental contract in which something else than money is given as price for renting a car;
- (ii) a goal which is made by a member of the defending team.

3.3. These two kinds of atypicality have opposite presuppositions.

Privative atypicality, which consists in a partial reduction of the conformity to a type, presupposes the *existence* of a type.

Negative atypicality, which consist in not being reducible to any type, presupposes the *absence*, the *non-existence* of a type.

³ Czesław. Znamierowski, *Podstawowe pojęcia teorii prawa, prawny i norma prawna* [Concetti fondamentali della teoria del diritto. Ordinamento giuridico e norma giuridica]. Poznań, Fiszer i Majewski, 1924, p. 68.