

PHENOMENOLOGY AND MIND

*THE ONLINE JOURNAL OF THE FACULTY OF PHILOSOPHY, SAN RAFFAELE UNIVERSITY*





## Topics

*Phenomenology and Social Ontology; Ethics and Political Theory; Cognitive Neurosciences, Philosophy of Mind and Language, Logic; Aesthetics, Metaphysics and History of Ideas.*

## Frequency

*2 issues per year*

## Editor-in Chief

*Roberta De Monticelli (PERSONA)*

## Co-Editors

*Research Centers*

*Roberta Sala (CeSE P)*

*Matteo Motterlini (CRESA)*

*Andrea Tagliapietra (CRISI)*

## Faculty

*Claudia Bianchi, Massimo Cacciari, Massimo Donà, Roberto Mordacci, Massimo Reichlin*

## Vice-Editor

*Stefano Cardini*

## Managing Editor

*Francesca De Vecchi*

## Editorial Team

*Stefano Bacin, Francesca Boccuni, Emanuele Bottazzi, Emanuele Caminada, Francesca De Vecchi, Francesca Forlé, Diego Fusaro, Alfredo Gatto, Giuseppe Girgenti, Roberta Lucentini, Barbara Malvestiti, Francesca Pongiglione, Andrea Sereni, Elisabetta Sacchi, Sarah Songhorian, Marco Spina, Silvia Tossut, Francesco Valagussa*

## Graphic Design

*Dondina e associati (print version)*

## Graphic Layout

*Direweb (on line version)*

## Web Site Editorial Board

*Emanuele Caminada, Stefano Cardini, Francesca Forlé, Barbara Malvestiti, Sarah Songhorian, Marco Spina*

# PHENOMENOLOGY AND MIND

THE ONLINE JOURNAL OF THE FACULTY OF PHILOSOPHY, SAN RAFFAELE UNIVERSITY

## JOINT COMMITMENT: COLLECTIVE INTENTIONALITY, NORMS AND JUSTICE

*Edited by Francesca De Vecchi and Silvia Tossut*



*Phenomenology and Mind* practices double blind refereeing and publishes in English.

#### SCIENTIFIC BOARD

##### **Phenomenology and Social Ontology (PERSONA)**

*Lynne Baker (University of Massachusetts, Amherst)*

*Stefano Besoli (Università di Bologna)*

*Jocelyn Benoist (Université de Paris 1- Sorbonne)*

*Daniele Bruzzone (Università Cattolica Sacro Cuore, Piacenza)*

*Amedeo G. Conte (Università di Pavia)*

*Paolo Costa (Fondazione Bruno Kessler, Trento)*

*Vincenzo Costa (Università degli studi del Molise)*

*Guido Cusinato (Università degli studi di Verona, Max Scheler Gesellschaft)*

*Paolo Di Lucia (Università degli studi di Milano)*

*Giuseppe Di Salvatore (Fondazione Camprostrini, Verona)*

*Maurizio Ferraris (Università degli studi di Torino)*

*Elio Franzini (Università degli studi di Milano)*

*Vanna Iori (Università Cattolica Sacro Cuore, Piacenza)*

*Shaun Gallagher (University of Memphis, University of Central Florida; Københavns Universitet;*

*University of Hertfordshire)*

*Vittorio Gallese (Università degli studi di Parma)*

*Dieter Lohmar (Universität zu Köln)*

*Giuseppe Lorini (Università degli studi di Cagliari)*

*Verena Mayer (Ludwig Maximilian Universität München)*

*Lorenzo Passerini Glazel (Università di Milano-Bicocca)*

*Jean-Luc Petit (Université de Strasbourg, Laboratoire de Physiologie de la Perception et de l'Action, Collège de France, Paris)*

*Stefano Rodotà (Università degli studi di Roma "La Sapienza")*

*Paolo Spinicci (Università degli studi di Milano)*

*Corrado Sinigaglia (Università degli studi di Milano)*

*Massimiliano Tarozzi (Università degli studi di Trento)*

*Dan Zahavi (Institut for Medier, Erkendelse og Formidling, Københavns Universitet)*

*Wojciech Żelaniec (Uniwersytet Gdański, Università degli studi di Cagliari)*

##### **Ethics and Political Theory (CeSEP)**

*Giampaolo Azzoni (Università degli studi di Pavia)*

*Elvio Baccarini (University of Rijeka)*

*Carla Bagnoli (Università degli studi di Modena e Reggio Emilia)*

*Gaia Barazzetti (Université de Lausanne)*

*Francesco Battegazzorre (Università degli studi Pavia)*

*Antonella Besussi (Università di Milano)*

*Alessandro Blasimme (INSERM UMR1027 - Université Paul Sabatier, Toulouse)*

*Alberto Bondolfi (Fondazione Bruno Kessler, Trento)*

*Patrizia Borsellino (Università di Milano Bicocca)*

*Francesco Botturi (Università Cattolica di Milano)*

---

© The Author(s) 2015.

La presente opera, salvo specifica indicazione contraria, è rilasciata nei termini della licenza Creative Commons Attribution 4.0 Unported (CC BY 4.0: <https://creativecommons.org/licenses/by/4.0/legalcode>).

CC 2015 Firenze University Press

Università degli Studi di Firenze

Firenze University Press

Borgo Albizi, 28, 50122 Firenze, Italy

[www.fupress.com](http://www.fupress.com)

*Phenomenology and Mind*. The Online Journal of the Faculty of Philosophy,  
San Raffaele University, on-line: <http://www.fupress.net/index.php/pam>

Stefano Canali (Scuola Internazionale Superiore di Studi Avanzati - SISSA)  
Ian Carter (Università degli studi di Pavia)  
Emanuela Ceva (Università degli studi di Pavia)  
Antonio Da Re (Università degli studi di Padova)  
Mario De Caro (Università di Roma III)  
Corrado Del Bo (Università degli studi di Milano)  
Emilio D'Orazio (POLITEIA - Centro per la ricerca e la formazione in politica ed etica, di Milano)  
Maurizio Ferrera (Università degli studi Milano)  
Luca Fonnesu (Università degli studi di Pavia)  
Anna Elisabetta Galeotti (Università del Piemonte Orientale, Vercelli)  
Barbara Herman (University of California, Los Angeles - UCLA)  
John Horton (Keele University)  
Andrea Lavazza (Centro Universitario Internazionale di Arezzo)  
Eugenio Lecaldano (Università degli Studi di Roma "La Sapienza")  
Neil Levy (University of Melbourne)  
Beatrice Magni (Università degli studi di Milano)  
Filippo Magni (Università degli studi di Pavia)  
Massimo Marassi (Università Cattolica di Milano)  
Alberto Martinelli (Università degli Studi di Milano)  
Susan Mendus (University of York)  
Glyn Morgan (Syracuse University in New York)  
Anna Ogliari (Università Vita-Salute San Raffaele)  
Valeria Ottonelli (Università degli studi di Genova)  
Federico Gustavo Pizzetti (Università degli Studi di Milano)  
Mario Ricciardi (Università degli studi di Milano)  
Nicola Riva (Università degli Studi di Milano)  
Adina Roskies (Dartmouth College)  
Giuseppe Sartori (Università degli Studi di Padova)  
Karsten R. Stueber (College of the Holy Cross)  
Nadia Urbinati (Columbia University)  
Corrado Viafora (Università degli studi di Padova)

#### **Cognitive Neurosciences, Philosophy of Mind and Language, Logic (CRESA)**

Edoardo Boncinelli (Università Vita-Salute San Raffaele)  
Stefano Cappa (Institute for Advanced Study, IUSS, Pavia)  
Benedetto de Martino (University College London, UCL)  
Claudio de' Sperati (Università Vita-Salute San Raffaele)  
Michele Di Francesco (Institute for Advanced Study, IUSS, Pavia)  
Massimo Egidi (Libera Università Internazionale degli Studi Sociali Guido Carli di Roma, LUISS Guido Carli, Roma)  
Francesco Guala (Università degli studi di Milano)  
Vittorio Girotto (Istituto Universitario di Architettura di Venezia, IUAV, Venezia)  
Niccolò Guicciardini (Università degli studi di Bergamo)  
Diego Marconi (Università degli studi di Torino)  
Gianvito Martino (Università Vita-Salute San Raffaele)  
Cristina Meini (Università del Piemonte Orientale)  
Martin Monti (University of California, Los Angeles, UCLA)  
Andrea Moro (Institute for Advanced Study, IUSS, Pavia)  
Michael Pauen (Berlin School of Mind and Brain, Humboldt-Universität)  
Massimo Piattelli Palmarini (University of Arizona)  
Giacomo Rizzolatti (Università degli studi di Parma)  
Marco Santambrogio (Università degli studi di Parma)  
Achille Varzi (Columbia University)  
Nicla Vassallo (Università di Genova)

## **History of Ideas, Aesthetics, Metaphysics (CRISI)**

*Massimo Adinolfi (Università degli studi di Cassino)*

*Simonetta Bassi (Università degli studi di Pisa)*

*Giovanni Bonacina (Università degli studi di Urbino)*

*Adone Brandalise (Università degli studi di Padova)*

*Enrico Cerasi (Università Vita-Salute San Raffaele)*

*Fabrizio Desideri (Università degli studi di Firenze)*

*Giulio D'Onofrio (Università degli studi di Salerno)*

*Roberto Esposito (Istituto Italiano di Scienze Umane-SUM, Napoli)*

*Adriano Fabris (Università degli studi di Pisa)*

*Romano Gasparotti (Accademia delle Belle Arti, Brera-Milano)*

*Sebastano Ghisu (Università degli studi di Sassari)*

*Dario Giugliano (Accademia delle Belle Arti, Napoli)*

*Giacomo Marramao (Università degli studi di Roma Tre)*

*Maurizio Migliori (Università degli studi di Macerata)*

*Salvatore Natoli (Università degli studi di Milano-Bicocca)*

*Pier Aldo Rovatti (Università degli studi di Trieste)*

*Vesa Oittinen (Università di Helsinki)*

*Giangiorgio Pasqualotto (Università degli studi di Padova)*

*Mario Perniola (Università degli studi Roma Tor Vergata)*

*Hans Bernard Schmid (Universität Basel)*

*Emidio Spinelli (Università degli studi La Sapienza-Roma)*

*Pirmin Stekeler-Weithofer (Universität Leipzig)*

*Italo Testa (Università degli studi di Parma)*

*Francesco Tomatis (Università degli studi di Salerno)*

*Federico Vercellone (Università degli studi di Torino)*

*Vincenzo Vitiello (Università Vita-Salute San Raffaele)*

*Frieder Otto Wolf (Freie Universität Berlin)*

*Günter Zöllner (Ludwig-Maximilians-Universität München)*

# CONTENTS

## INTRODUCTION

- Francesca De Vecchi, Silvia Tossut*  
Joint Commitment, Human Life and Social Ontology 10

## JOINT COMMITMENT

- Margaret Gilbert*  
Joint Commitment: What It Is and Why It Matters 18

## SESSION 1. COLLECTIVE BELIEFS

- Wojciech Żelaniec*  
Augur Augurem Videns... Belief and Make-Believe in Social Life 30

- Silvia Tossut*  
On Acting Because of a Joint Commitment 38

- Leo Townsend*  
Joint Commitment and Collective Belief: a Revisionary Proposal 46

- Sonja Rinofner-Kreidl*  
Epistemic Authority and Manipulation: Exploring the 'Dark Side' of Social Agency 54

## SESSION 2. GROUPS' INTENTIONALITY

- Jacob Heim*  
Commitments in Groups and Commitments of Groups 74

- Francesca De Vecchi*  
The Plural Subject Approach to Social Ontology and the Sharing Values Issue 84

- Glenda Satne, Alessandro Salice*  
Helping Behavior and Joint Action in Young Children 98

- Gian Paolo Terravecchia*  
A Phenomenology of Social Stances 108

# CONTENTS

## **SESSION 3. SHARED NORMS**

<i>Francesco Guala</i> The Normativity of Institutions	118
<i>Joshua Keton</i> The Social Impact Theory of Law	130
<i>Seumas Miller</i> Joint Political Rights and Obligations	138
<i>Lorenzo Passerini Glazel</i> Shared Norms and Nomotrophic Behaviour	148

## **SESSION 4. JUST JOINT COMMITMENTS**

<i>John Horton, Ryan Windeknecht</i> Associative Political Obligations and the Distributive Objection	162
<i>Roberta Sala</i> May Joint Commitment Stabilize Modus Vivendi?	172
<i>Helen Lauer</i> The Anatomy of Collusion	182



---

LORENZO PASSERINI GLAZEL

Università di Milano - Bicocca

lorenzo.passerini@unimib.it

---

# SHARED NORMS AND NOMOTROPHIC BEHAVIOUR

---

## *abstract*

*The paper proposes to construe the “interventions in the lives of others when one thinks that the others’ behaviour is wrong” (Devlin and Gilbert), and the “reactions to disappointment of normative expectations” (Niklas Luhmann) under the notion of “nomotrophic behaviour”, i.e. a behaviour that aims at the maintenance of a norm in the event of its infringement. Subsequently, some of the implications of nomotrophic behaviour at an epistemological level (as a clue for inferring norms from action), and at an ontological level (with respect to the existence of norms) are investigated. The paper then examines a possible norm-generating (nomogenic) effect of “nomotrophic behaviour am Phantasma”, and eventually inscribes the different forms of nomotrophic behaviour in the superordinate category of “meta-normative behaviour”.*

---

## *keywords*

*nomotrophic behaviour, nomotropism, inference of norms, existence of norms, meta-normative behaviour*

- 0. Introductory remarks** In *Shared Values, Social Unity, and Liberty* (2005, <sup>2</sup>2014),<sup>1</sup> Margaret Gilbert deals with the question of social unity, that is to say with the question of when a plurality of persons constitutes a social group.
- 0.1.** Gilbert moves from Patrick Devlin's thesis that "society is not something that is kept together physically; it is held by the invisible bonds of common thought. If the bonds were too far relaxed the members would drift apart. *A common morality is part of the bondage*" (Devlin 1959, <sup>2</sup>1965, p. 10; italics mine).<sup>2</sup> Gilbert then reformulates the question of social unity in the following terms: "Is there a way of sharing values such that such sharing is sufficient for social unity?" (Gilbert 2014, p. 182). Following Devlin, Gilbert focuses on a peculiar phenomenon which she considers revealing for the question of social unity, a phenomenon connected with her salient notion of "joint commitment". This phenomenon is the "intervention" in the lives of others when one thinks that the others' behaviour is wrong with respect to a presupposed value or commitment (or, I would say, with respect to a presupposed norm). In the present paper I will focus on this phenomenon.
- 0.2.** I suggest to call "nomotrophic behaviour" the intervention in the lives of others when one thinks that the others' behaviour is wrong with respect to a presupposed value, commitment, or norm. By "nomotrophic behaviour" I mean a behaviour which aims at the maintenance of a norm in the event of its infringement: it typically consists in a reaction to the (actual or possible) infringement of that norm.<sup>3</sup> The idea underlying the concept of nomotrophic behaviour is that a social norm that is repeatedly infringed with no reaction may slowly "atrophy" and vanish (by "desuetude"); and that its atrophy may be countered through different forms of *nomotrophic behaviour*.

---

1 The chapter "Shared values, social unity, and liberty" in the book *Joint Commitment* (2014) by Margaret Gilbert was first published in *Public Affairs Quarterly*, 19 (2005), pp. 25-49.

2 Quoted by Gilbert (2014, p. 205).

3 See Passerini Glazel (2013a, 2013b and 2015). The adjective 'nomotrophic' (with 'ph') is derived from Greek 'νόμος' 'nómos' ("norm") and 'τρέφω' 'tréphō' ("to nourish").

In principle, any norm can be the object of a nomotrophic behaviour, be it a norm deriving from a shared value or joint commitment, a moral norm, a legal norm, a conventional norm, a rule of a game, etc.

*Nomotrophic* behaviour (nomotrophic with ‘ph’) is a peculiar form of what Amedeo Giovanni Conte proposed to call “*nomotrophic* behaviour” (nomotrophic with ‘p’): *nomotrophic* behaviour is indeed a *species* of the *genus* of *nomotrophic* behaviour. **0.3.**

By “nomotrophic behaviour” Conte means “acting with-reference-to a norm”, which does not imply complying with that norm.<sup>4</sup> In other words, nomotrophic behaviour is a behaviour that is oriented to a norm, without necessarily being in conformity with the norm itself.<sup>5</sup>

Here are three examples of nomotrophic behaviour.

- (i) The stealthily behaviour of a thief. As Max Weber (1922) remarked, a thief, in concealing his action, acts with-reference-to the norms of the criminal code that punish theft (even though he does not comply with those norms).
- (ii) The behaviour of a cheater illegally extracting an ace from his sleeve in the card game of poker. The cheater infringes the rules of poker, but he still acts with-reference-to those rules, given that it is only in virtue of those rules that an ace is an ace (and has its specific ludic value) in poker.
- (iii) Tax avoidance. Tax avoidance is a behaviour oriented to tax legislation, even though it is intended to avoid its application.

In the present paper I suggest to construe Devlin’s and Gilbert’s “interventions in the lives of others”, as well as Niklas Luhmann’s “reactions to disappointment of normative expectations”, as forms of (that peculiar kind of nomotrophic behaviour that is) *nomotrophic behaviour* (§ 1.). Subsequently, I will show some of the implications of nomotrophic behaviour at an *epistemological level*, as a clue for inferring norms from action (§2.), and at an *ontological level*, with respect to the existence of norms (§ 3.). I will then examine a possible norm-generating (nomogenic) effect of what I suggest to call “nomotrophic behaviour *am Phantasma*” (§ 4.), and finally I will propose to inscribe these different forms of nomotrophic behaviour in the superordinate category of “meta-normative behaviour” (§ 5.). **0.4.**

Devlin’s and Gilbert’s main concern in their analysis of the “intervention” in the lives of others (when one thinks that the others’ behaviour is wrong with respect to a presupposed value, commitment, or norm) is the question of the “standing to intervene”, that is the question of the *legitimacy* of such an intervention.

On my part, I will leave aside the question of the *standing* to intervene, as well as the conditions of the *legitimacy* of nomotrophic behaviour, and I will focus on the phenomenon itself, and on its relation to norms.<sup>6</sup>

**1.  
Intervention  
in the lives of  
others as a form  
of “nomotrophic  
behaviour”**

---

<sup>4</sup> Complying with a norm, and acting in conformity with a norm (as well as nomotrophic behaviour), are only peculiar cases of nomotrophic behaviour. See Conte (2011).

<sup>5</sup> The adjective ‘*nomotrophic*’ (with ‘p’) is derived (on the model of ‘*heliotropic*’) from Greek ‘νόμος’ ‘*nómos*’ (“norm”) and ‘τρέπω’ ‘*trépo*’ (“to turn to”). On the concept of “nomotrophic behaviour”, see Conte (1975, 2000a, 2002, 2003, 2004, 2011, 2012a). Conte’s investigations on nomotropism are closely intertwined with Di Lucia’s investigations on “acting with-reference-to a norm” and on “effectiveness without fulfilment”: see Di Lucia (1996, 2002, 2003 and 2007). See also Passerini Glazel (2012b). Two very fruitful implementations of the concept of “nomotropism” can be found in Chiodelli & Moroni (2014) and in Lauer (2015).

In another context, Eric L. Santner employed the term ‘nomotropism’ in psychoanalysis: by nomotropism he means “the obsessive-compulsive preoccupation with *nomos*, with matters of law, justice, and ethics” (which for Freud “also comprised the compulsive dimension of the search for scientific truth, the *Zwang* internal to *Wissenschaft*”): see Santner (1999, 22000, p. 68).

The term ‘*nomo-tropism*’ is employed in yet another context by the cultural anthropologist Allen Feldman in correlation with the term ‘*trauma-tropism*’: see Feldman (2002).

<sup>6</sup> I equally suspend any *value judgment* on nomotrophic behaviour itself.

What do Devlin and Gilbert mean by “intervening in the lives of others” though?

According to Gilbert, “Devlin would surely include as interventions *rebuking* others for certain actions and, in advance, *demanding* that they act in a particular way” (Gilbert 2014, p. 185).

Gilbert considers rebukes and demands as paradigmatic interventions.

I propose to construe *rebukes* as a form of backward-looking reaction to an actual (or supposed) infringement of a norm, and *demands* (in Gilbert’s sense) as a form of forward-looking reaction to a possible infringement of a norm.<sup>7</sup>

Both rebukes and demands, in Gilbert’s sense, are forms of what I propose to call “nomotrophic behaviour”.

By “nomotrophic behaviour” I mean a behaviour aimed at the maintenance of a norm in the event of its infringement, that is to say a behaviour by which one reacts to the (actual or possible) infringement of a norm in order to prevent the relevant norm from being neglected, forgotten, abandoned, and eventually atrophying and vanishing.

Besides rebukes and demands, there are many other possible forms of nomotrophic behaviour.<sup>8</sup>

The imposition of a sanction is, of course, one of the possible forms of nomotrophic behaviour, and a prominent one. However, we are not always in the position of imposing a sanction to someone (in Devlin and Gilbert terms, we do not always have the “standing” to impose a sanction to someone); or we may consider that a sanction would not be appropriate to the situation.

This point has been emphasized by the German sociologist Niklas Luhmann in *A Sociological Theory of Law* (1972). Luhmann criticizes those who define the concept of “norm” uniquely through the inclination to impose sanctions “in the event of disappointment”. According to Luhmann, “the repertory of possibilities is thus too strictly limited and often it is misunderstood that the retention of expectation is more important than being able to impose it” (Luhmann 1972, trans. 1985, p. 47).<sup>9</sup>

Besides the imposition of sanctions, there are many other forms of reaction to what Luhmann calls the “disappointment of normative expectations”.<sup>10</sup>

---

With regards to the question of the *legitimacy* of nomotrophic behaviour it may be noted that, in some cases, nomotrophic behaviour may bring about an *a posteriori* auto-legitimation (this can be the case, for instance, in what in § 3. I propose to call “nomotrophic behaviour *am Phantasma*”).

With regards to the possible *value judgments* on nomotrophic behaviour, I assume a scientific and neutral (anaxiological) point of view. It is worth noting, by the way, that any value judgment on a particular nomotrophic behaviour (which appears mainly as a contingent axiological question) seems at least in part related to a preliminary value judgment on the norm it is intended to maintain, or on its practical consequences. I am grateful to Helen Lauer for having drawn my attention on this point.

7 On the one side, a demand can be construed as a before-the-fact reaction to a possible infringement of a norm; on the other side, as Gilbert suggests, a rebuke can be construed “as an after-the-fact demand” (Gilbert 2014, p. 397) (or at least, I would add, as a demand not to reiterate the infringement of a particular norm in the future).

An icastic example of nomotrophic demand is the famous passage from Saint Catherine of Siena’s Letter 8 to Pope Gregory XI: “*Voi dovete venire: venite dunque* [You ought to come: come, then!]. I am grateful to Amedeo Giovanni Conte for this example.

I assume that both rebukes and demands presuppose a norm, with reference to which the others’ behaviour is qualified as wrong.

8 Gilbert remarks this point, and mentions as an example commending for conformity to a commitment in difficult circumstances: see Gilbert (2014, p. 199). Gilbert responds here to a comment by Jennifer Nadelsky.

9 See also Luhmann (1969).

10 For his sociological determination of the concept of “norm” Luhmann refers to Johan Galtung’s paradigm: “*cognitive expectations vs. normative expectations*” (Galtung 1959). A *cognitive* expectation is an expectation one is disposed to change or redefine in case of dissonance with respect to reality (following G.E.M. Anscombe (1957) and John R. Searle (1975, 2010) I would speak of an expectation-to-world direction of fit); on the contrary, a *normative*

The variety of forms of reaction that are alternative to sanctions is illustrated by Luhmann through an example:

If I arrange to meet a friend in a café and do not meet him there, I do not only feel hurt in my cognitive, but also in my normative, expectations. He should be there! Some kind of ‘treatment’ of disappointment and expectation is now required, but there are various possibilities at my disposal which do not all have the character of a sanction. For example, I can ask the waiter about the friend and express my norm of expectation by undertones of disappointment, annoyance and worry [...]. However, I can also turn to him personally by telephoning him or reproaching him during a later meeting. As a consequence [an] apology may be forthcoming: I can accept an apology from my friend without imposing any type of sanction, which presumes that my expectation was justified in principle. [...]

A different type of strategy operates with the non-verbal characteristics of the given situation. I may leave the café immediately and expose the late-comer to his own injury. [...] On the other hand, I can remain sitting in the café to prove the meaning of the norm by the extent of my sacrifice. I can let it turn into scandal in order to enjoy to the full the social resonances of the scandal, if not the norm.

Techniques of making known and spreading about the case of disappointment, the escalation into scandal and the enjoyment of one’s own set-backs, the techniques that enjoin fulfilment of norms, of hurt or the tactful acceptance of excuses, techniques of self-effacement and enduring pain or techniques of innocent enlargement of injury and justifiable pleasure at the other’s injury [*Schadenfreude*] – there is a series of possibilities to give the old norm the expression which is adapted to a new situation (Luhmann 1972, trans. 1985, pp. 46-47).<sup>11</sup>

All the techniques mentioned by Luhmann “give the old norm the expression which is adapted to a new situation”, “so that even the less robust natures are capable of carrying on life with their norms, even if they are not capable of imposing sanctions” (Luhmann 1972, trans. 1985, p. 47).

How do these techniques give “expression” to the infringed norm? It is important to remark that they do not do it necessarily in an *explicit*, or in a *linguistic* form.<sup>12</sup> My interpretation is that these techniques “give expression” to the infringed norm *modo obliquo*, in virtue of the fact that the reaction *presupposes* the existence of the infringed norm. The infringed norm is implied in the pragmatic presuppositions of the reaction to the infringement of a norm.

A brief analysis of the respective presuppositions of *conviction* (verdict of guilty) and *forgiveness* may contribute to clarify this point.<sup>13</sup>

Despite their opposite effects, conviction and forgiveness share three identical presuppositions:<sup>14</sup>

---

expectation is an expectation one is *not* disposed to change or redefine, so that, in case of dissonance, it is reality that has to be changed or redefined in order to match the expectation (world-to-expectation direction of fit).

11 See also Luhmann (1969, p. 39).

12 Gilbert, too, speaks of a “proposal and acceptance of a joint commitment”, which “need not be verbal” (see Gilbert 2014, p. 196).

13 My analysis follows Maria-Elisabeth Conte’s analysis of the presuppositions of forgiveness. See Maria-Elisabeth Conte (1992). See also Conte (1977), Fillmore (1971), Silvi (2004) and Passerini Glazel (2015).

14 “Great and honest kind of revenge is forgiveness”. Fra’ Bartolomeo da San Concordio, in *AmmaestramentidegliAntichi*, a work written presumably at the beginning of XIV century, attributes this maxim to Seneca, and quotes Seneca’s treaty *De quatuor virtutibus cardinalibus*; this treaty (probably modelled on a lost work

- (i) *factive* presupposition: the existence of the fact being sanctioned or forgiven respectively;
- (ii) *axiological* presupposition: the fact has a negative value with reference to a norm, whose existence is presupposed;
- (iii) presupposition of *responsibility*: the person respectively convicted or forgiven is responsible for the fact.<sup>15</sup>

The *axiological* presupposition is the essential presupposition for nomotrophic behaviour: any behaviour with this kind of presupposition implies a reference to a norm (or a value), and so does any nomotrophic behaviour.<sup>16</sup>

It is in virtue of this axiological presupposition that nomotrophic behaviour “gives expression” to the (actually or possibly) infringed norm.

**2. Nomotrophic behaviour as a clue for inferring norms**

The fact that nomotrophic behaviour (explicitly or implicitly) gives expression to the infringed norm has a particular relevance for the *epistemological* question concerning the conditions of possibility of the inference of norms from action.<sup>17</sup>

The inference of norms from action is made clearly easier when the relevant norms are *explicitly* and *linguistically* formulated. However, this is frequently not the case, not even within the law: the norms that operate within a given social group are not always *verbal* norms, nor are they always *verbalized* norms.<sup>18</sup>

What means can be used to infer *non-verbal* and *non-verbalized* norms from the behaviour of people belonging to a social group?

This question acquires even greater importance if we take into account the two following remarks.

*First* remark: An empirically observed *regularity* of behaviour (a regular pattern of behaviour) is not necessarily a *normative* regularity: it is not necessarily a regularity determined by a norm (or by a rule).<sup>19</sup>

The fact, for instance, that a family regularly eat fish on Fridays may well depend on a norm of the Catholic religion, but it may also be a mere (non-normative) habit (possibly derived from that particular religious norm being followed by past generations, although it was subsequently abandoned as a norm).

*Second* remark: Even when a behaviour is determined by a norm, it may be “semiotically mute” about the norm: it does not necessarily tell anything about the norm (or norms) which determined that particular behaviour: acting in compliance with a norm does not necessarily imply the (explicit or implicit) expression of that norm, nor does it imply the ability to express that norm in linguistic form.

---

by Seneca) is now attributed to Saint Martin of Braga (c. 520-580 A.D.), under the title *Formula vitae honestae, or De differentiis quatuor virtutum vitae honestae*.

<sup>15</sup> It may be helpful to recall that in some cultures, and in some legal systems, one can be responsible for an action performed by another subject.

<sup>16</sup> As I remarked in note 4, any norm, in principle, can be the object of a nomotrophic behaviour, be it a norm deriving from a shared value or joint commitment, a moral norm, a legal norm, a conventional norm, a rule of a game, etc. The axiological aspect of this presupposition lies in the fact that it refers to an *infringement* of a norm.

<sup>17</sup> This question is strictly related to Ludwig Wittgenstein’s considerations on rule-following. Inspired by Wittgenstein, but partly in contrast with Wittgenstein, Amedeo Giovanni Conte investigated the presuppositions of the inference of a norm from action in many of his works: see, for instance, Conte (1990), Conte (2000b) and Conte (2002); see also Carcaterra (2002).

<sup>18</sup> On the distinction between *non-verbal* norms and *non-verbalized* norms, see Sacco (2015), Caterina (2009), Passerini Glazel (2009).

<sup>19</sup> The German sociologist Theodor Geiger calls *Regelhaftigkeit* a *non-normative* regularity, and *Regelmäßigkeit* a *normative* regularity (see Geiger 1947, trans. 1969, p. 44). See also Conte (1990), Conte (2000b) and Conte (2002).

Eating fish regularly on Fridays, for instance, is in itself semiotically mute about its possible determination by a norm.<sup>20</sup>

On the contrary, a person who reacts to the infringement of a norm uses his nomotrophic behaviour as a manifestation of his thought.

On the one side, indeed, nomotrophic behaviour explicitly or implicitly qualifies the broken regularity as a *normative* regularity: it is a *reaction* to the *breaking* of that regularity.

On the other side, nomotrophic behaviour is semiotically pregnant, since (as I have shown in § 1.) it gives (explicit or implicit) expression to the norm implied in its presuppositions.

Thus, if a person in a family, for instance, rebukes another member of the family who has prepared meat for lunch on Friday, this is quite a relevant clue of the existence, in that family, of a norm on eating fish on Friday (and consequently of the *normative* character of the relative regularity).

Nomotrophic behaviour, in comparison to behaviour in conformity with a norm, is thus a more salient clue to infer the existence (at least from the point of view of the person who acts nomotrophically) of a norm, especially in informal normative systems, where norms are generally not explicitly formulated.<sup>21</sup>

Nomotrophic behaviour, thus, has a particular relevance at an *epistemological* level; but it also has implications at an *ontological* level, in particular with reference to the issue of the *existence of norms*.

I said that “nomotrophic behaviour” is a behaviour by which one reacts to the (actual or possible) infringement of a norm in order to prevent that norm from being neglected, forgotten, or abandoned, and eventually atrophying or vanishing: it aims at the *maintenance* of a norm (or a value, or a normative expectation), by contrasting its possible atrophy.

Let me try to clarify this point.

According to Luhmann, a normative expectation “that is continuously disappointed and is without expression fades away. It is inadvertently forgotten, and it is not believed any more” (Luhmann 1972, trans. 1985, p. 46). The risk, thus, is that a continuously infringed norm loses its vitality, becomes inoperant, atrophies, and fades away by desuetude.

The aim of nomotrophic behaviour is to counter the possible atrophy and desuetude of the norm.<sup>22</sup>

The phenomenon of nomotrophic behaviour emphasizes then, *ex negativo*, the correlative phenomenon of atrophy and desuetude of norms.

Desuetude (*desuetudo*)<sup>23</sup> is a particular way (alternative to explicit derogation) in which norms

### 3. The incidence of nomotrophic behaviour at the level of the existence of shared norms

---

20 This remark has been made, for instance, by the Italian legal anthropologist Rodolfo Sacco with reference to customary norms: “The quality of the psychological act preceding or concurring with the applying of a customary norm is the same in modern man (who often cannot verbalize the norm), in man who had no articulated language, as well as in animals with a developed social organization [...]. A man who is not able to verbalize his own norm, our ancestor lacking speech, an animal studied by an ethologist, all of them do not use their action as a manifestation of their own thought” (Sacco 2000, p. 121).

In contrast to Sacco’s claim is the claim by Emilio Betti according to which “any form of practical activity implies an implicit representative value” (Betti 1971, p. 7).

21 Gilbert seems to be aware of this epistemological salience when she focuses on the “standing to intervene” in her account of shared values based on the notion of joint commitment.

22 In many legal systems there is a phenomenon that closely resembles nomotrophic behaviour. If a right of a certain kind (for example: a right to the compensation of damage deriving by a tort, in Italian law) is not exercised or claimed in a given (generally statutorily determined) lapse of time, that right may decay, may prescribe, and vanish. The holder of the right has to exercise or claim that right before the given period of time is elapsed to keep that right alive and to prevent that right from prescribing and coming to non-existence.

23 On desuetude, and on the possible relations between *desuetudo* and *consuetudo*, I am working in a book to come (*Il farsi e il disfarsi delle norme*).

pass from *existence* to *non-existence*. Just like not every norm comes to *existence* in virtue of an explicit speech (verbal) act of enactment, not every norm comes to *non-existence* in virtue of an explicit speech (verbal) act of derogation.

In philosophy of law the existence of a norm is sometimes construed as its *validity* (by most legal positivists and normativists, for instance), sometimes as its *effectiveness* (by most legal realists, for instance); but, in principle, *validity* and *effectiveness* are two distinct phenomena.<sup>24</sup> Desuetude is a tricky phenomenon for this distinction: the *validity* of a norm ceases in virtue of the lack of *effectiveness* of that norm.<sup>25</sup>

An interesting account of desuetude is suggested by Hans Kelsen. In the second edition of the *Pure Theory of Law* (1960) Kelsen writes:

A legal norm may lose its validity by never being applied or obeyed – by so-called desuetude (Kelsen, 1960, trans. 1967, p. 213).

Recalling his theory of the “basic norm” as the origin of the validity of every norm within a legal system, Kelsen writes:

In the basic norm the fact of creation and the effectiveness are made the conditions of the validity – “effectiveness” in the sense that it has to be added to the fact of creation, so that neither the legal order as a whole nor the individual legal norm shall lose their validity (Kelsen, 1960, trans. 1967, p. 212).

Kelsen clarifies that “effectiveness is a *condition* for the validity – but it’s not validity”:

A condition cannot be identical with that which it conditions. Thus, a man, in order to live, must have been born; but in order to remain alive other conditions must be fulfilled, for example, he must receive nutrition. If this condition is not fulfilled, he will lose his life. But life is neither identical to birth, nor with being nourished (Kelsen, 1960, trans. 1967, p. 212).

Also the Italian legal philosopher Norberto Bobbio makes use of the metaphor of “nourishment” with reference to norms. In *Consuetudine e fatto normativo* (1994), Bobbio writes:

In the long run, a normative system can survive only if the majority of its norms gives rise to corresponding customs. Custom is not only *optima legum interpres*, but also the nourisher and feeder of the statute law: it maintains statute law alive (Bobbio 1994, p. 45).

My notion of nomotrophic behaviour is precisely the notion of a behaviour which aims at nourishing norms against their possible atrophy; nomotrophic behaviour seems thus to have an incidence at the ontological level of the *existence* of norms, at least in so far as it may prevent a norm from coming to *non-existence*: it may play an important role in maintaining norms and normative systems (especially informal ones) alive.<sup>26</sup>

---

<sup>24</sup> See, for instance, Bobbio (1993).

<sup>25</sup> Desuetude is a puzzling phenomenon for the philosophy of law, which has not been thoroughly studied yet. Incidentally, many legal systems tend to exclude the possibility of desuetude, at least with reference to statute laws.

<sup>26</sup> A specific phenomenon that could be fruitfully investigated under the concept of nomotrophic behaviour is, in anthropology of law, the phenomenon of self-protection (e.g. vendetta) in primitive law.



To norms may fit the following words from Johann Wolfgang Goethe's play *Torquato Tasso*:  
 "Was gelten soll, muß wirken".<sup>27</sup>

However, nomotrophic behaviour may not only contribute to the maintenance of the existing norms of a normative system: it may also give rise to new norms, it may have a norm-generating (nomogenic) effect.

This may be the case with what I propose to call "nomotrophism *am Phantasma*".<sup>28</sup>

Nomotrophism *am Phantasma* occurs when one acts nomotrophically with reference to a non-existing norm, i.e. with reference to a mere representation of a norm, to a deontic noema,<sup>29</sup> which is not (yet) a shared or valid norm.

In some cases, one may act nomotrophically with reference to a non-existing norm because he erroneously thinks that that norm exists.

In certain situations, though, one may intentionally act nomotrophically with reference to a non-existing norm because he thinks that that norm would be appropriate for the situation.

Human rights movements may be an example: by reacting to the violation of what they believe to be human rights (in accordance with their normative representations, with their deontic noemata), human rights defenders act nomotrophically with reference to norms that are not (yet) valid in some legal systems, but which they promote, and resolutely propose to be recognized, shared and enacted within all legal systems.

This last case of nomotrophic behaviour *am Phantasma* implies a peculiar "normative will", such as an *animus inducendi consuetudinem* (a will to arouse a customary norm).

However, this normative will is quite different from the normative will implied in the formal enactment of a norm: it is not an immediately effective thetic (performative) will, which immediately creates a new norm. The normative will implied in this kind of nomotrophism *am Phantasma* is an indirect will: it consists in a *proposal* of a norm, appealing for a shared *a posteriori* recognition and validation of that norm.<sup>30</sup>

In § 4. I stated that nomotrophic behaviour *am Phantasma* implies a peculiar indirect normative will: the will that a non-existing norm be recognized and shared, or enacted.

Even ordinary nomotrophic behaviour implies a kind of indirect normative will, though: the "normative will" that an existing norm remain operant and valid.

Thus, following a suggestion by Margaret Gilbert and Seamus Miller, nomotrophic behaviour, as well as nomotrophic behaviour *am Phantasma*, may be called "*meta-normative* behaviours".<sup>31</sup>

**4.  
The norm-  
generating effect  
of nomotrophism  
*am Phantasma***

**5.  
Meta-normative  
behaviour**

---

27 Goethe (1790, act I, scene IV). I suggest two possible translations: "What ought to be valid, must be effective", and "What is to be valid, has to be operant". I interpret Goethe's passage taken out of context and of co-text.

28 My idea of "nomotrophism *am Phantasma*" is inspired by the concept of "deixis *am Phantasma*", introduced in linguistics by Karl Bühler (1933). An example of deixis *am Phantasma* is when a speaker, while uttering a sentence, points at something that is not there, behaving as if it was there, by hands and gestures, for instance. See also the concept of "*praxis am Phantasma*" in Conte (2003).

29 "Deontic noema" is a term proposed by Amedeo Giovanni Conte for a mental normative representation (in contrast with an actual normative state-of-affairs, a "deontic status"). See Conte (2012b).

30 With reference to John Langshaw Austin's (1962) triadic paradigm "locutionary vs. illocutionary vs. perlocutionary", the immediate "nomothetic" effect of an act of enactment is evidently an *illocutionary* effect; the mediated nomogenic effect of nomotrophism *am Phantasma* may be considered a *perlocutionary* effect.

The normative will implied by nomotrophic behaviour *am Phantasma* may be compared to the will implied in Kant's categorical imperative: "Act only according to that maxim by which you can at the same time will that it should come a universal law" (Kant 1785, tr.1993, p. 30).

31 I am grateful to Margaret Gilbert and to Seamus Miller for this suggestion. Another possibility is to speak of "para-normative behaviour".

A different kind of meta-normative (or para-normative) behaviour is the phenomenon known in some places as

REFERENCES

- Anscombe, G.E.M. (1957), *Intention*, Basil Blackwell, Oxford;
- Austin, J.L. (1962), *How To Do Things with Words*, Clarendon Press, Oxford;
- Bartolomeo da San Concordio (1963), *Ammaestramenti degli antichi*, P.G. Colombi (ed.), Cantagalli, Siena;
- Betti, E. (1971), *Interpretazione della legge e degli atti giuridici*, second revised edition, G. Crifò (ed.), Giuffrè, Milano;
- Bobbio, N. (1993), *Teoria generale del diritto*, Giappichelli, Torino;
- . (1994), *Consuetudine e fatto normativo*, in N. Bobbio, *Contributi ad un dizionario giuridico*, Giappichelli, Torino, 1994;
- Bühler, K. (1933), *Ausdruckstheorie. Das System an der Geschichte aufgezeigt*, Fischer, Jena;
- Carcattera, G. (2002), “Indizi di norme”, *Sociologia del diritto*, 29, 3, pp. 123-139;
- Caterina, R.(ed.) (2009), *La dimensione tacita del diritto*, Edizioni Scientifiche Italiane, Napoli;
- Chiodelli, F. & Moroni, S. (2014), “The complex nexus between informality and the law: Reconsidering unauthorised settlements in light of the concept of nomotropism”, *Geoforum*, 51, pp. 161-168;
- Conte, A.G. (1975), *Validità*, in *Novissimo digesto italiano*, UTET, Torino, vol. XX, 1975, pp. 418-425;
- . (1977), *Aspekte der Semantik der deontischen Sprache*, in A.G. Conte, R. Hilpinen & G.H. von Wright (eds.), *Deontische Logik und Semantik*, Athenaion, Wiesbaden, 1977, pp. 59-73;
- . (1990), *Validità atthetica*, in S. Castignone (ed.), *Studi in memoria di Giovanni Tarello*, Giuffrè, Milano, vol. II, 1990, pp. 163-176; seconda edizione in A.G. Conte, *Filosofia del linguaggio normativo. II. Studi 1982-1994*, Giappichelli, Torino, 1995, pp. 409-424;
- . (2000a), “Nomotropismo: agire in-funzione-di regole”, in *Sociologia del diritto*, 27, 1, pp. 1-27;
- . (2000b), *Regole di linguaggio e linguaggio delle regole*, in M. Carapezza & F. Lo Píparo (eds.), *La regola linguistica. Atti del VI congresso della Società di filosofia del linguaggio*, Novecento, Palermo, 2000, pp. 41-63; second edition in A.G. Conte, *Filosofia del linguaggio normativo. III. Studi 1995-2001*, Giappichelli, Torino, 2001, pp. 921-945;
- . (2002), “Unomia. Il luogo delle regole in un mondo di fatti”, in *Sociologia del diritto*, 29, 3, pp. 9-44;
- . (2003), “Filosofia del baro”, in *Rivista internazionale di Filosofia del diritto*, 4, 4, pp. 679-746;
- . (2004), “Kanone. Filosofia della regolarità”, in *Sociologia del diritto*, 31, 3, pp. 5-22;
- . (2011), *Sociologia filosofica del diritto*, Giappichelli, Torino;
- . (2012a), “Nomotropismo”, in G. Lorini & L. Passerini Glazel (eds.), *Filosofie della norma*, Giappichelli, Torino, 2012, pp. 307-316;
- . (2012b), “Norma: cinque referenti”, in G. Lorini & L. Passerini Glazel (eds.), *Filosofie della norma*, Giappichelli, Torino, 2012, pp. 57-65;
- Conte, M.-E. (1992), “Semantica del predicato ‘perdonare’”, in G. Galli (ed.), *Interpretazione e perdono*, Marietti, Genova, 1992, pp. 13-21;
- Devlin, P. (1959, <sup>2</sup>1965), “The enforcement of morals”, *Proceedings of the British Academy*, 45; second edition: *Morals and the Criminal Law*, in P. Devlin, *The Enforcement of Morals*, Oxford University Press, Oxford, 1965, pp. 1-25;

---

“Italian strike”, or “*sciopero bianco*” (white strike), in English work-to-rule. Work-to-rule may be construed as an “hypertrophic nomotropic behaviour”, a behaviour which (on the contrary of ordinary nomotropic behaviour) aims, by contrast, at a nomo-annihilating effect, that is at the derogation of a norm (‘nomo-annihilating’ is a term proposed by Edoardo Fittipaldi 2012).

- Di Lucia, P. (1996), "Agire secondo una norma, agire per una norma, agire in funzione di una norma", in P. Comanducci & R. Guastini (eds.), *Struttura e dinamica dei sistemi giuridici*, Giappichelli, Torino, 1996, pp. 37-45;
- . (2002), "Efficacia senza adempimento", in *Sociologia del diritto*, 29, 3, pp. 73-104;
- . (2003), "Norma in actu", in P. Di Lucia, *Normatività*, Giappichelli, Torino, 2003, pp. 183-215;
- . (2007), "Agire in-funzione-di norme", in A.G. Conte, P. Di Lucia, A. Incampo, G. Lorini & W. Żelaniec, *Ricerche di Filosofia del diritto*, L. Passerini Glazel (ed.), Giappichelli, Torino, 2007, pp. 164-178;
- Feldman, A. (2002), "Strange fruit. The South African Truth Commission and the demonic economies of violence", in B. Kapferer (ed.), *Beyond Rationalism. Rethinking Magic, Witchcraft, and Sorcery*, Berghan Books, Oxford, 2002, pp. 234-265;
- Fillmore, Ch.J. (1971), "Verbs of judging", in Ch.J. Fillmore & D.T. Langendoen (eds.), *Studies in Linguistic Semantics*, Holt, Rinehart & Winston, New York, 1971, pp. 272-289;
- Fittipaldi, E. (2012), *Everyday Legal Ontology. A Psychological and Linguistic Investigation within the Framework on Leon Petrażycki's Theory of Law*, LED, Milano;
- Galtung, J. (1959), "Expectations and interaction processes", in *Inquiry*, 2, pp. 213-234;
- Geiger, Th. (1947), *Vorstudien zu einer Soziologie des Rechtes*, Munksgaard/Universitetsforlaget, Aarhus/København, [Acta Jutlandica, 19, 2 (1947)]. Partial English translation by E.R. Peck, in Th. Geiger (ed.) (1969), pp. 39-122;
- . (1969), *On Social Order and Mass Society. Selected Papers*, R. Mayntz (ed.), Chicago University Press, Chicago/London;
- Gilbert, M. (2005), "Shared values, social unity, and liberty", in *Public Affairs Quarterly*, 19, pp. 25-49; second edition: "Shared values, social unity, and liberty", in M. Gilbert, *Joint Commitment. How We Make the Social World*, Oxford University Press, Oxford, 2014, pp. 181-206;
- . (2014), *Joint Commitment. How We Make the Social World*, Oxford University Press, Oxford;
- Goethe, J.W. von (1790), *Torquato Tasso. Ein Schauspiel*, Georg Joachim Göschen, Leipzig;
- Kant, I. (1785), *Grundlegung zur Metaphysik der Sitten*, Harknoch, Riga; J.W. Ellington (trans.), *Grounding for the Metaphysics of Morals*, third edition, Hackett, 1993;
- Kelsen, H. (1960), *Reine Rechtslehre*, Deuticke, Wien; Max Knight (trans.), *Pure Theory of Law*, University of California Press, Berkeley, 1967;
- Lauer, H. (2015), "The anatomy of collusion", *Phenomenology and Mind*, 9, pp. 182-191;
- Luhmann, N. (1969), "Normen in soziologischer Perspektive", *Soziale Welt*, 20, pp. 28-48;
- . (1972), *Rechtssoziologie*, Rowohlt Taschenbuch, Reinbek bei Hamburg; E. King & M. Albrow (trans.), *A Sociological Theory of Law*, M. Albrow (ed.), Routledge & Kegan Paul, London, 1985;
- Passerini Glazel, L. (2009), "Decriptare criptòtipi", in R. Caterina, *La dimensione tacita del diritto*, Edizioni Scientifiche Italiane, Napoli, 2009, pp. 139-145;
- . (2012b), "Operanza di norme", in G. Lorini & L. Passerini Glazel (eds.), *Filosofie della norma*, Giappichelli, Torino, 2012, pp. 237-244;
- . (2013a), "Disused norms: norm atrophy and nomotrophic behaviour", in C. Stancati, A. Givigliano, E. Fadda & G. Cosenza (eds.), *The Nature of Social Reality*, Cambridge Scholars, Newcastle upon Tyne, 2013, pp. 55-64;
- . (2013b), "Norm atrophy and nomotrophic behaviour. On a mode of inexistence of norms", in S. Colloca (ed.), *The Value of Truth/The Truth of Value. Proceedings of the International Seminar, Nomologics 1*. Pavia, Residenza Golgi, 14th-16th July 2011, LED, Milano, 2013, pp. 159-168;
- . (2015), "Il perdono come atto nomotrofico", in S. Biancu & A. Bondolfi (eds.), *Perdono: negazione o compimento della giustizia?*, FBK Press, Trento, 2015, pp. 49-67;
- Sacco, R. (2000), "Lingua e diritto", *Ars interpretandi*, 5, pp. 117-134;
- . (2015), *Il diritto muto. Neuroscienze, conoscenza tacita, valori condivisi*, Il Mulino, Bologna;
- Santner, E.L. (1999, 2000), "Freud's 'Moses' and the ethics of nomotrophic desire", in *October*, 88,

- pp. 3-41; second edition in R. Salecl (ed.), *Sexuation*, Duke University Press, Durham, 2000, pp. 57-105;
- Searle, J.R. (1975), "A taxonomy of illocutionary acts", in K. Gunderson (ed.), *Language, Mind, and Knowledge*, University of Minnesota Press, Minneapolis, 1975, pp. 344-369;
- . (2010), *Making the Social World. The Structure of Human Civilization*, Oxford University Press, Oxford;
- Silvi, M.Q. (2004), *Struttura giuridica del perdono*, Franco Angeli, Milano;
- Weber, M. (1922), *Wirtschaft und Gesellschaft*, Mohr, Tübingen;
- Wittgenstein, L. (1953), *Philosophical Investigations (Philosophische Untersuchungen)*, G.E.M. Anscombe (trans.), Basil Blackwell, Oxford.