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Typology of Types:
Prototype, Cognitive Type, Normative Type

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1. Type vs. token in social ontology

1.1. Czesław Znamierowski's *per se* social acts and tetical acts

It is known that the Polish philosopher Czesław Znamierowski gave a great contribution to the ontology of social objects, which he named "social ontology".

In *O przedmiocie i fakcie społecznym* (1921), Znamierowski writes:

Societies aren't simply made of persons and physical objects. A fundamental role in the structure of society is played by some specific objects, which exist, and *can* exist, only inside a society.

Znamierowski calls these objects "*per se* social objects".

Examples of *per se* social objects are legal norms, social rules, social institutions, *etc.*

In the same paper Kalinowski delineates the concept of "*per se* social act": social acts are acts "which, like *per se* social objects, can exist only inside society (and without which no society could be imagined)."

Examples of *per se* social acts given by Znamierowski are: oath [*giuramento, serment*], deed of gift [*donazione, donation*], order, as well as homicide, larceny (theft) [*furto, vol or larcin*], the act of (bank-)saving.

Later on, in the book *Podstawowe pojęcia teorii prawa. I. Układ prawny i norma prawna (Concetti fondamentali della teoria del diritto. I. Struttura giuridica e norma giuridica)*, 1924 Znamierowski proposed the concept of "tetical act" ["*akt tetyczny*"]: tetical acts are "acts which couldn't exist (that is, it wouldn't be possible to do them) if the (tetic, constructive) norm that construct it didn't exist".

Examples of tetical acts given by Znamierowski are: social games grounded on conventions (such as chess [*scacchi, échec*], card games, *etc.*), and legal acts (such as purchasing and selling [*compravendita, achat et vente*], making one's will [*fare testamento, faire testament*], getting married [*sposarsi, se marier*], passing a sentence [*emanare una sentenza, rendre un arret*], arresting someone [*compiere un arresto, arreter quelqu'un*].

It is by virtue of some specific constructive norms that some psycho-physical facts such as moving a coloured piece of paper on another one aren't simply the

movement of some coloured piece paper, but the moving of a queen of hearts, or of an ace of spades.

It is evident that there is *not* a single “constructive norm” [*“norma konstrukcjina”*] for every single (instantiation of) a tetical act: the norms (or rules) that made possible for me to lose a chess game against my friend Giovanni last night are exactly the same rules that made possible for Kasparov to win a game against (or, more probably, to end the game in a draw with) Karpov in the game they played on date X in place Y.¹

Constructive norms *do not* directly construct single *tokens* of tetical acts: they construct *types* of tetical acts, which can be instantiated in an indefinite number of tokens.

1.2. Amedeo G. Conte on eidetic-constitutive rules

In *Paradigmi d’analisi della regola in Wittgenstein*, 1983, ²1995, Conte claims that the eidetic-constitutive rules which constitute a *type* of act in a game (a “praxeme” like the pawn-move in the game of chess) are necessary conditions of existence of the *type* of that act, and consequently of every *token* of that *type*.

Conte argues:

‘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 [must move] in a straight line’ is a *eidetic-constitutive rule* of the 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 that of which there is no *type*, there can be no *token*).

So, constructive norms and eidetic-constitutive rules respectively construct and constitute the *types* of acts, not directly *tokens* of those acts.³

This point can be clearly explained by means of the analysis of constitutive rules made by Conte in terms of conditions.

¹ In which sense we can say that those norms are the same norms? This is a question that concerns the ontology of norms, a subject to which is dedicated the brand new essay by Amedeo G. Conte: *Norma*, 2005.

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

³ It is possible to think of a type of which no tokens are given: the type of a move of a game which was invented by someone, but was never played, for instance; or the type of a musical composition which was never been played.

Eidetic-constitutive rules are defined by Conte “rules which are *necessary* condition of that of which they are rules”.

They are only *necessary* conditions: not even *sufficient* conditions.⁴

1.3. Types of legal acts

The same point which applies to eidetic-constitutive rules seems to apply to anankastic-constitutive rules in Conte’s typology.

Conte’s example of the anankastic-constitutive rule that sets the condition of being signed by the testator as a necessary condition for the validity of the holograph will, shows that this rule concerns the type of (legal) act of making one’s will.

It is evident that most legal norms on legal acts concern legal acts as *types*, not as *tokens*.

So there is only one rule, in Italian legal system, on holography of the type of legal act: holograph will, but this rule applies to every single token that can be given.

But what kind of types the types of legal acts and the types of game entities are?

Given that norms are involved (in different ways) in the constitution of these types of acts, it would seem natural to call them *normative types*.

But the concept of normative type is ambiguous, as I will show in the next part of my paper.

2. Typology of types

I distinguish two senses in which a type can be *normative*, depending on whether it is normative with regard to its *genesis*, or with regard to its *function*.

A type is normative, on the one hand, with regard to its *genesis* if it’s been created, or determined, by (or through) an act of normation.

⁴ There is, perhaps, in Conte’s typology of constitutive rules, a kind of rules which can directly constitute *tokens* of something, rather than *types*. There is, in fact, in Conte’s typology, a kind of constitutive rules which are *sufficient* conditions of that of which they are rules: Conte calls this kind of rules *thetic-constitutive* rules.

Examples of thetic-constitutive rules are Gaetano Carcaterra’s “*norme costitutive*” [“*constitutive norms*”].

A practical example could be a *decreto* by which Italian *Presidente della Repubblica* grants a pardon to someone.

A type is normative, on the other hand, with regard to its *function* if it has a normative function in relation to reality.

2.1. Thetical type vs. athetical type

I propose to call types which are created, or determined, by a (thetic) act of normation "*thetic types*".

Thus, for instance, types of acts constituted by constitutive rules, or by tetical rules, are thetical types.

Legal types of contracts, which are provided and instituted in Italian Codice civile, are thetical types.

On the other hand, I propose to call "*athetical types*" those types which are not created by thetical acts of normation.

Social types of contracts, for instance, are athetical types: their origins are in consuetude, not in statute law.

But this doesn't mean that athetical types are not normative types at all: they still can have a normative function.

2.2. Normative type vs. cognitive type

I said that a type can be normative with regard to its function: it is normative if it has a normative function in relation to reality.

I shall explain this in terms of direction of fit.

The type of legal act "holograph will" is normative in the sense that its tokens have to fit the type in order to be valid tokens of it.

The same applies to tokens of moves of chess: they have to fit the type in order to be tokens of those types of moves.

But there is another function a type can have, in which the direction of fit is in the opposite way: it is the cognitive function.

When a type has a merely cognitive function, it is the type that has to fit its tokens in order to be a type for those tokens.

It could appear strange, but my distinction between thetical types and athetical types, which I applied to normative types, can be applied to cognitive types, too.

Prototypes (most representative, most typical members of categories), for instance, are types of natural categories which have athetically emerged as the most typical members of a given category.

There are no necessary conditions for a prototype to be the most typical member of a category.

In Italy, for instance, prototypical sport is football (or soccer), while in United States it is baseball.

Prototypes are often determined by the cultural context: they are not necessarily grounded on scientific features: they are a typical expression of doxastic categorization.

But when we turn to *episteme*, even cognitive types may be determined by means of a thetical stipulation.

There can be, in fact, cognitive types which are instituted by a thetical act.

An example is given by botanical categories: new types of plants can be created through a thetical imposition of a name for a species. The International Code of Botanical Nomenclature fixes an articulated set of norms on how to *validly* give a new name for a new species illustrated by a new type.

	Cognitive types	Normative types
Thetical types	<p>Scientific nomenclature type</p> <p>E.g.: <i>Alsophila kalbreyeri</i> Baker validly published by Baker in 1982.</p>	<p>Legal type</p> <p>E.g.: The type of contract “locazione” [<i>lease</i>] in Italian <i>Codice civile</i>.</p>
Athetical types	<p>Prototype</p> <p>E.g.: The prototypical Italian breakfast.</p>	<p>Consuetudinary types</p> <p>E.g.: A social type of contract such as parking contract.</p>

Table 1. Typology of types

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