1. **Introduction: Social Institutions between Culture and Nature**

The opposition between nature and culture has always been paradigmatic in the philosophy of society. The idea that the basic rules and entities defining our social framework can exist only in virtue of an agreement among human beings, and thus be dependent on the conceptions shared among them, has been traditionally conceived as being in direct contrast with the thesis that social reality can be grounded on nature. Conversely, the idea of a “natural” social setting has typically been advocated when, in the course of history, it became necessary to justify a given social order by showing how this order was rooted in features of reality independent from arbitrary agreement and thus was, necessarily, objective.

The example of a basic social institution such as law clearly illustrates this point. The whole history of philosophy of law can be seen in the light of the debate between legal positivism, according to which legal institutions are conventionally framed by authority and social obedience, and natural law theory, according to which it is possible to define at least a minimum set of institutions and rules whose rationale does not depend on human acceptance and whose existence is, in some sense, dependent on the rational order of nature.¹ “The demands of the laws are artificial, but the demands of nature are necessary. And the demands of the laws are the result not of natural disposition but of agreement, but the demands of nature are exactly the opposite,” famously writes Antiphon in DK 44 B

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¹ For reasons of simplicity I do not consider here legal realism, because it would require an entirely separate treatment. Indeed legal realism, and psychologistic legal realism in particular, has many features in common with the theories of collective acceptance currently accepted in social ontology. Hence, even though with several qualifications, what I will be saying in what follows concerning the theories of collective acceptance can, at least to a certain extent, hold for legal realism as well.
One of the questions at stake in this millenary debate was objectivity: If institutions depend on simple agreement and convention, they can be changed at will and thus there is no real reason to follow them apart from mere conformism; on the other hand, according to natural law theorists, the only possible ground on which to objectify justify institutional obligations is nature, conceived as a natural order. As Cicero writes in *De legisbus* I, 43, 16,

> But if rights were established by peoples' orders, if by leading men's decrees, if by judges' verdicts, there would be a right to rob, a right to commit adultery, a right to substitute false wills, if those things were approved by votes or resolutions of a multitude. But if there is such power in the sentiments and orders of the foolish that the nature of things is changed by their votes, why don't they establish that those things bad and destructive should be held to be good and salutary things? Or if law can make right out of wrong, can't the same law make good out of bad? But we can divide good law from bad by no other precept than that of nature. (Translated by D. Fott.)

With time, legal positivism has become a much more mainstream ontology of law than natural law theory, but in order to gain such a widespread acceptance it had to find an answer to the question of objectivity, combining the idea of law’s conventionality with that of an objective truth for legal statements. H. L. A. Hart’s view stated in *The Concept of Law* is in this regard exemplary: According to this conception, not everything in a legal system depends on acceptance, only its “rule of recognition” does, and this rule states under which conditions all the other legal rules are valid and binding. Hence, that a given statute has been passed and thus is valid is an objective question, but the fundamental rule defining what counts as a valid law exists only if accepted and practiced by officials (Hart 1994, chap. 6).

A similar solution has emerged in contemporary social ontology. Here the generally accepted view, which for example John Searle has maintained in several places (see for example Searle 2010, 17–8), is that the reality of social institutions is ontologically subjective, but epistemically objective. Thus, according to this thesis, the fact that an institutional fact occurs is an (epistemically) objective question dependent on the conditions stated in its constitutive rules; but the “existence” or bindingness of these constitutive rules, which an institution consists in, is an (ontologically) subjective question of collective acceptance. 2 When it comes to define what collective acceptance amounts to,

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2 In *Making the Social World*, of 2010, Searle has explicitly distinguished between institutional facts without institutions, and hence without constitutive rules (or “standing declarations,” in his new terminology), and institutional facts that require constitutive rules (see Searle 2010, 93ff.). In the course of this paper, I will limit myself to this second kind.
however, theories and authors begin to diverge. According to Searle, collective acceptance is a kind of collective intentionality, an intentionality “in the plural” that can be considered as a primitive feature of human beings (see for example Searle 2010, chap. 3). Hence, all kinds of social actions can be analyzed in terms of given sets of individuals having intentional states with the content “we intend that x,” and institutional facts can be seen as a particular case of this general structure, a case in which individuals of a given community have intentional states with the content “we accept that (X counts as Y in context C, and Y has a status function, and hence deontic powers).” An alternative theory is that which instead explains social and institutional reality in terms of mutual beliefs, or (as philosophers sometimes say) “common knowledge.” Admittedly, this is more a cluster of theories than a single theory, because almost all the authors who have appealed to mutual beliefs in explaining institutional reality (among them Margareth Gilbert, Michael Bratman, Raimo Tuomela, Seumas Miller) diverge on some important detail: However, the shared idea is that institutional facts exist only if they are collectively accepted to exist, and this collective acceptance can be analyzed in terms of individual intentional states plus mutual beliefs, that is, recursive beliefs about others’ beliefs (see for example Gilbert 1989, 298ff.; Bratman 1992, 338; Tuomela and Miller 1985, 375; Miller 2007, 76).

These are only two theories of collective acceptance. There exist others, and not all necessarily presuppose that the relevant mental states actually occur in the minds of individuals: For example, Philip Pettit’s (2001) does not and rather ascribes collective mental states by assuming collective agents with definite features. But it is certainly striking that, in these theories where collective acceptance actually entails the presence of individual mental content in the form of (at least dispositional) beliefs, the shaping role of culture has not found significant recognition. However, beliefs on rules and other kinds of abstract artifacts are high-level collective mental states, and it cannot but be trivially true that cultural presuppositions play a role in their maintenance and development.

Of course it may very well be that collective acceptance theories will eventually turn out to be false. For example, J. P. Smith, Filip Buekens and Stan Du Plessis have recently developed in two papers (Smith et al. 2011, 2014) an “incentivized action view of institutional reality” which is meant to criticize the idea that, in order for institutions to exist, collective acceptance must also be present.4 There is no space here to consider this

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3 To a certain extent, one could say that Searle has described the shaping role of hidden cultural assumptions in his concepts of “Background” and “Network.” I will come back to these concepts later, in Section 3.

4 Another criticism to collective acceptance theories can be found in Roversi 2012.
theory with the attention it deserves. What I will note, however, is that the incentivized action view does not deny that cultural determinants are essential for an institution to exist. On the contrary, one could argue that most of what this view identifies as incentives turn out to be such exactly for cultural reasons. When, for example, these authors argue that there exists a strict connection between ownership and third parties’ being “disincentivized to interfere with the owner’s use of the object” (Smith et al. 2014, 1818), they assume that this “incentivization is accomplished by moral beliefs about private property, the informal social norms governing such interference [...] and the police’s willingness and ability to punish physical interference with how I use [what I own]” (ibid.). It goes without saying that culture is certainly crucial to understand these factors.

Now the question is: Once we recognize that the reality of social institutions is at least culturally-dependent, is there still room for nature as a possible determinant of social reality? Many authors maintain that there is and argue that, even though of course culture plays a crucial role in determining the ontology of social institutions, nature is essential in shaping the background against which this cultural determination can happen: In fact, there are objective natural features shared by human beings which are necessary conditions to explain the emergence of institutional structures within society. A good example of such a culturally-independent relationship between nature and social institutions has been provided by Benoît Dubreuil in his 2010 book *Human Evolution and the Origins of Hierarchies*. In this book, Dubreuil explains how legal institutions began to emerge at a specific moment in the evolutionary history of humankind in the Middle Stone Age, that is, a moment in which the temporal lobe of human brains grew larger and became sufficiently developed to use recursive “meta-representations” representing the meaning of other representations (see Dubreuil 2010, 123–5). Among these meta-representations were the rules defining proto-legal roles necessary to organize social sanctions and regulate other kinds of social exchanges in the context of enlarged traditional human communities (see Dubreuil 2010, 166–75). A crucial aspect of this “behavioural modernization” typical of *Homo sapiens* (as compared to *Homo neanderthalensis*), in parallel with the development of proto-legal institutions, was the construction of symbolic artifacts, namely, artifacts explicitly constructed to signal a given social status (see Dubreuil 2010, 110–2, 131).

Dubreuil is not alone in arguing for such a culture-independent role of nature in shaping social ontology. In their paper *The Naturalness of (Many) Social institutions: Evolved Cognition as Their Foundation*, of 2012, Pascal Boyer and Michael Bang Petersen argue that institutional design happen in the background of content-rich intuitions which are the outcome of natural features of human cognition in evolution. Among these features are “the expectation of stable long-term unions between men and women that associate privileged or exclusive sexual access with economic solidarity” (an expectation which they find to be at the root of marriages: Boyer and Petersen 2012, 7), the “motivation to punish norm violators” (which they identify as one of the determinants of legal systems: ibid., 9), and “judgments of distributive justice [made] combining a principle of equality [...] with context-based intuitions about merit and need” (which in their view form the basis of commons management and thus of economic exchange: ibid., 11). According to Boyer and Petersen, these basic “natural” intuitions are necessary for cultural intuitions to be acquired (ibid., 14), can explain why in a given context institutions have been framed in a certain way rather than in another (ibid., 4), and can even be the basis for predictions about which outcome of institutional design will more likely be effective (ibid., 15ff.).
If these theories are correct, the content and structure of social institutions are dependent on evolutionary constraints having to do with the development of human brain and cognition and thus they are not entirely culture-dependent. Of course, one could wonder whether this kind of evolutionary explanations are in their own turn culture-independent, and hence (by adopting a sort of constructivist stance) whether the natural relations of dependence they envisage are free from cultural determinants. I do not intend to take a stance on scientific constructivism by addressing this question. All that matters for my purposes here is that Dubreuil’s and Boyer and Petersen’ theories can be an explanation of how nature influences the structure of social institutions independently from culture.

There is, however, another way in which nature can be found to influence the ontology social institution, and this can emerge if we consider nature not under an “objective” light, such as that assumed by the above-mentioned evolutionary theories, but rather as the content of specific conceptions that emerge in a given social and historically-determined context: Thus, we focus here on culturally-relative conceptions of nature, conceptions that could very well be wrong, and that often were wrong, but that in any case have had an impact on how institutional structures have been framed because they were believed to be relevant for this purpose. Indeed, the role of collective beliefs here is crucial. While the above-mentioned theories consider nature as something which influences social ontology independently of what people believe, and thus argue for a culture-independent relation between nature and social ontology, my focus in what follows will instead be a relation between conceptions of nature and social institutions which is clearly culturally-dependent: I want to show how conceptions of nature can have an impact on social institutions because they are collective believed to do so, and not because of some sort of objective evolutionary connection.

My discussion will be structured as follows: In Section 2, I will give three examples of social institutions in which a culture-dependent relationship between conceptions of nature and social ontology can be ascertained—states, corporations, and contracts—and I will introduce a new concept to account for it, that of institutional mimesis. Basically, institutional mimesis is something that happens whenever a given community’s conception of nature clearly moulds the way in which social institutions are framed. In Section 3, I give an explanation of how institutional mimesis can have an impact on the content of collective acceptance by appealing to two influential theories in contemporary cognitive psychology, namely, those on conceptual metaphors and conceptual blending. In Section 4, I appeal to Ian Hacking’s concept of historical ontology to explain how such an impact of culturally-determined conceptions of nature on the ontology of social institutions can be significant not only as a historical discovery but also for us, today. Finally, in Section 5 I briefly consider two objections that can be raised against the argument proposed in the previous sections.

2. Institutional Mimesis: How the Ontology of Social Institutions can Depend on Culturally-determined Conceptions of Nature

Let me start with states, or rather, with what is usually called the “modern” concept of the state. It is a quite traditional view in legal and political history that the state in this sense emerged in the 17th century in Europe, progressively transforming the multi-centered, pluralistic legal settings typical of the Middle Ages into a single, hierarchical organization...
governed by its own logic, a logic which subsequently (after the French Revolution) concretized into the legal discipline we now call “administrative law”. Now, according to Stephen Toulmin in his famous 1990 book *Cosmopolis*, the rise of such a new and unified political framework, organized according to an internal rationality and in a sense universal, should be viewed as inextricably intertwined with a specific conception of the natural world: the conception encapsulated in the new, mathematical science which emerged in the same period and whose foremost champion was Isaac Newton. Writes Toulmin:

> Between 1660 and 1720, few thinkers were only interested in accounting for mechanical phenomena in the physical world. For most people, just as much intellectual underpinnings was required for the new patterns of social practice, and associated ideas about the *polis*. As a result, enticing new analogies entered social and political thought: if, from now on, “stability” was the chief virtue of social organization, was it not possible to organize political ideas about *Society* along the same lines as scientific ideas about *Nature*? (Toulmin 1992, 107)

Elsewhere in the same work he adds:

> From 1700 on, social relations within the nation-state were defined in horizontal terms of *superordination* and *subordination*, based on class affiliation: the “lower orders” as a whole were seen as subordinate and inferior to the “better sort” as a whole. Each class had its place in the horizontal system that constituted a nation-state, and at the summit of the structure was the King. Social place was typically defined by the status of the men involved, and was applied to their wives and children by association. As a by-product of the nation-state, class distinction became, as never before, the crucial organizing principle of all society. In France especially, the key force in society was the monarch’s “solar” power to control (and illuminate) the state’s activities. […]. Here, the planetary model of society was explicitly *cosmopolitical*. Without such a justification, the imposition of hierarchy on “the lower orders” by “the better sort” of people would be arbitrary and self-serving. To the extent that this hierarchy *mirrored the structure of nature*, its authority was self-explanatory, self-justifying, and seemingly rational. (Toulmin 1992, 133; italics mine in the last occurrence)

In the final part of this second passage, Toulmin’s idea is put in remarkably clear terms: Since the beginning of the 18th century, the hierarchical structure connected with the modern state could be seen as “mirroring” the structure of nature and thus could be justified by this analogy. But, conversely, the scientific conception of nature that

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5 A classical statement of this view can be found in Weber 1978, chap. 11; see also Fioravanti 1990, sec. 2 for a critical assessment, and Mannori and Sordi 2009, 234ff. on the rise of administrative law after the French Revolution.
underpinned this analogy was in its own turn strengthened from its very birth by its justificatory power: “[T]he world view of modern science—as it actually came into existence—won public support around 1700 for the legitimacy it apparently gave to the political system of nation-states as much as for its power to explain the motion of planets” (Toulmin 1992, 128). We thus have to do with two possible “directions of mirroring,” namely, from the modern conception of nature to the way we build the modern State’s institutional structure and, conversely, from the latter to the former.

Clearly, in this example the connection is culturally dependent: It is the outcome of a specific culture of science and of politics under which, on the one hand, the new scientific methods gave the impression of being able to explain everything, including social relations and institutional structures, and on the other hand the birth of the nation state was conceived as the basic element of a new, supreme political order. Culture shaped the background against which a given conception of nature could impact on social institutions. I will call this phenomenon “institutional mimesis.” More specifically, I will trace to institutional mimesis all those cases in which one or more constitutive rules of a social institution are collectively accepted to imitate or to be at least structurally homologous to some descriptions of a natural reality. Toulmin’s idea that the modern conception of the state mirrored the modern conception of nature is precisely an example of institutional mimesis in this sense, at least because the constitutive rules defining the mutual relations of hierarchy among powers within the state’s structure were collectively accepted to imitate relations of dependence among natural entities described through nomological scientific statements. Indeed, this was a fundamental ground for the justification of these rules.

Speaking of justification, it is important to keep distinct those cases in which institutional mimesis is only a way to legitimize or interpret a given institution ex post, hence without having any role in its creation, on the one hand, and those cases in which we can at least hypothesize that institutional mimesis actually played a role in this creation, on the other hand. Let me express this distinction by means of the dichotomy between hermeneutic and genetic institutional mimesis. It is difficult to say whether, in Cosmopolis, Toulmin had in mind an example of hermeneutic or genetic mimesis. Certainly, one could argue that the modern conception of the state had arisen in virtue of its own political factors, first among which the struggle between absolute monarchy and the medieval landscape of scattered decision-making powers. Thus, proceeding in this direction, it would be easy to say that the modern conception of science simply justified a preexisting institutional structure that was emerging for its own reasons. But it cannot be excluded that this ideology played a role in the subsequent moulding, modification, and development of the institution “state,” and indeed I think this is something that Toulmin had in mind when he wrote of organizing “political ideas about Society along the same lines as scientific ideas about Nature,” as in the passage quoted above. This would be a case in which collective acceptance of a given institution is first influenced by hermeneutic mimesis, namely, by a given influential interpretation of the institution “state,” and then for this reason becomes genetic, that is, it has an ontological bearing because that interpretation gains a more or less tacitly shared acceptance.

Let me give another example of this dialectics between hermeneutic and genetic mimesis with regard to a kind of social institution which is frequently discussed in social ontology, namely, corporations. Consider the very genesis of this concept in Western legal thought, namely, the Roman idea that a universitas can be endowed with a legal personality separate
from that of its members, as in the famous passage by Ulpian “If a debt is owed to the universitas, it is not owed to the individual members, and what is owed by the universitas is not owed by the individual members” (Digest 3, 4, 7, I). As Karl Olivecrona reminds us in the 1928 essay “Corporations as universitates,”

The Romans had, of course, no counterpart to the countless economic organizations which abound in our modern industrial community; but there existed a multitude of collegia or societies of many kinds: burial societies, trade gilds and public bodies such as the municipia (towns) with their governing curiae or decuriae. For these various organizations the Roman jurists laid down rules that have become fundamental in the modern law of corporations. (Olivecrona 1949, 5)

In this essay Olivecrona maintains that, in Roman legal thought, the very idea of a corporation having a legal personality separate from that of its individual members depended on its being considered a separate entity, something which can exist not simply as a mere collection of parts. This was possible in light of a specific distinction between three kinds of natural corpora, a distinction that can be found in the Stoic philosophers and that was accepted by the Roman jurists. According to this distinction, which is clearly formulated by Pomponius in a famous passage (Digest, 41, 3, 30, pr.) and can be found in Seneca as well, there are three kinds of corpora to be found in nature: homogeneous objects of a given species whose parts are melted together and have no separate standing, for example, a statue; objects of a given species whose parts have their own separate species but are connected in a coherent way, for example, a ship (corpus ex cohaerentibus); and, finally, objects of a given species whose parts have their own separate species and are also physically independent, for example, a herd of sheep (corpus ex distantibus). According to Olivecrona, the universitates discussed by the Roman jurists were to be conceived as corpora ex distantibus:

As corpora of the third class corporations were similar in nature to other corpora belonging to this class. The fundamental rules concerning their rights and duties are only applications of the general theory of corpora. The essential thing is that the entity is a corpus, distinct from the parts, with an individuality that remains unchanged despite changes in the parts. The rules are inferences drawn from these assumptions. (Olivecrona 1949, 35)

As in the case of Toulmin’s hypothesis on the rise of the modern State, here a legal organization is created in such a way that it mirrors natural reality under a common—we would say “scientific,” according to the standards of the period—conception of it:

The classification of corpora refers to their objective nature; it is founded on natural science without consideration of social convenience. In their arguments the jurists assume that the classification is scientifically correct; this is the reason why they use it in their interpretation of law. (Olivecrona 1949, 29)

This is therefore another example of institutional mimesis—and, more in particular, of a hermeneutic institutional mimesis which then became genetic, because it is not possible to deny the impact that the Roman jurists’ doctrines and conceptions have had on the subsequent development of European legal thought. To put it in very simple terms, these jurists advanced their interpretation of basic legal institutions, the interpretation became authoritative when included in Justinian’s Corpus Juris Civilis, and it was then accepted, as well as re-interpreted, by the great glossators of the Middle Age. The whole process, and its
further outcomes in the history of our legal culture, eventually produced our idea of legal personality and thus of corporations. Does this mean that we actually believe that legal corporations are *corpora ex distantibus*? Of course not. But what we believe of corporations is the cultural result of that conception.

Consider finally an example concerning contracts. An ancestor of this concept can be found in the Roman concept of *promissio*, a kind of legal transaction through which persons could undertake an obligation under *ius gentium*, that is, even if they were not Roman citizens (the corresponding transaction for Roman citizens was instead the *sponsio*, as described, for example, by Gaius in *Digest* 1, 3, 93). Now, in the second volume of his 1941 *Der Romische Obligationsbegriff* (the first volume was written in 1927), Axel Hägerström argues that a *promissio* could take place only by offering (literally “putting forward,” *pro-mittere*) the right hand, which had to be accepted by the promisee in order for the transaction to be validly performed. In his view, however, such a contact between right hands was necessary for the transaction to happen because some sort of “fluid” or “force” was thought to be transmitted in nature upon contact, and this force in a sense entailed a communion framed in normative terms. Writes Hägerström:

In the *dextru* there is a particular internal force through which a person’s objectives can be achieved. By way of a *dextrarum iunctio*, the respective forces are supernaturally merged [vereinigt], and in this way a mystic community is created in what concerns the sources of those forces. Compare this idea with the primitive conceptions about forces enclosed in external objects mystically transmitted by physical contact or more generally by external contiguity [äusseres Zusammensein]. These forces are conceived as *fluida*, which are transmitted from one object to another. If the original connection has been organic, a supernatural communion of destinies also arises. (Hägerström 1941, 162; my translation)

What Hägerström is calling *supernatural* and *mystic* here was instead clearly part of the primitive conception of the natural world he is describing, a conception governed by animism. Thus, if Hägerström’s interpretation is correct, the transmission of rights and duties entailed by a *promissio* mirrored the actual transmission of forces which was thought to happen in nature upon contact. This is another example of institutional mimesis, a culture-dependent influence of beliefs about nature on collective beliefs concerning institutional procedures.

3. Conceptual Metaphors and Conceptual Blending at the Root of Institutional Mimesis

If Toulmin’s, Olivecrona’s, and Hägerström’s theses presented above are correct, institutional mimesis has played a role in the development of the concept of State in the modern era, as well as in the emergence of the concepts of legal corporation and of contract in the Roman legal thought. It seems safe to assume that, if these were contingencies, they were nevertheless of crucial importance for the development of Western legal culture. Let me now put forward some conjectures on how to explain these phenomena.

I assume here a theory of institutions which is broadly speaking that of Searle, with several amendments: Institutions are sets of constitutive rules, and these constitutive rules define institutional concepts by specifying their conditions and normative consequences. The
conditions under which a given institutional fact Y can be brought to existence include: (i) the occurrence of “brute,” pre-institutional facts or the performance of “brute,” pre-institutional actions; (ii) the occurrence or performance of other institutional facts or actions systematically connected with Y. The normative consequences of Y include: (a) the coming into existence of other institutional facts systematically connected with Y; (b) a specific normative import defined in terms of meta-institutional concepts. The model can be summarized with the following formula:

\[ X \text{ (CONDITION): Occurrence of a pre-institutional fact or action / Consequence of an institutional fact or action (systematic correlation)} \]

\[ \text{COUNTS AS Y, and Y entails } \]

\[ Z \text{ (CONSEQUENCE): Conditions for the occurrence or performance of another institutional fact or action (systematic correlation) / Normative import defined in terms of meta-institutional concepts.} \]

According to the collective-intentionality view in social ontology an institution exists if a set of rules of this kind are collectively accepted within a given community. But for the most part these rules are internalized by way of socialization, and this is where culture steps in: They are internalized within a given cultural framework. Culture cannot but play a crucial role in explaining why the constitutive connections are framed in this way and not in another, and why they cannot be arbitrarily changed. In other words, while the structure of an institution is provided by constitutive rules, the rationale behind those constitutive rules is provided by assumptions which are at least in part culturally transmitted, assumptions that can be tacit and are always the outcome of a specific historical development.

As mentioned above, this is something that Searle explicitly includes in his theory by way of his concepts of “Background” and “Network”, namely, the body of tacit presuppositions which forms the very context against which intentional states find their significance. Among these Searle includes “what is regarded as an appropriate thing to say in a conversation, what is regarded as an appropriate dress, what is regarded as permissible

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6 Again, I am not considering here “Type 1” of Searle’s institutions, namely, “the creation of an institutional fact without an institution” (Searle 2010, 94). Moreover, by including element Z in the constitutive rules I am incorporating Frank A. Hindriks’s critique concerning practical import in Searle’s theory, thus basically accepting Hindriks’s “XYZ conception of constitutive rules” (see for example Hindriks 2005, 129–32). On meta-institutional concepts, see Miller 1981.
sexual behaviour, what is regarded as permissible political and moral opinions” (Searle 2010, 155). In Searle’s view, many of these cultural presuppositions are normative, and in this case can be seen as an exercise of “Background power” (see Searle 2010, 160). Already in Intentionality, of 1983, Searle qualified the “local Background” as a set of “local cultural practices” (Searle 1983, 144).

I submit that institutional mimesis can work as a local Background assumption in Searle’s sense, and thus be an important factor in the cultural construction of institutional concepts at least at a given time of their history, influencing the way in which these concepts are structured by collective acceptance in the developments that follow. I also advance the conjecture that this kind of mimetic conceptualization can be accounted for in terms of influential theories in contemporary cognitive psychology and linguistics. In fact, theories about “conceptual metaphors,” which are quite important in the current psychological debate, show how we ordinarily conceptualize abstract things in a given domain by means of other, less abstract things in other domains. George Lakoff writes in his 1996 Moral Politics:

A conceptual metaphor is a correspondence between concepts across conceptual domains, allowing forms of reasoning and words from one domain […] to be used in the other […]. It is extremely common for such metaphors to be fixed in our conceptual systems, and thousands of such metaphors contribute to our everyday modes of thought. For the most part, we use them without effort or conscious awareness. Yet, as we shall see, they play an enormous role in characterizing our worldviews. (Lakoff 1996, chap. 4)

In the 1980 Metaphors We Live By, George Lakoff and Mark Johnson draw on the theory of the “embodied mind” to argue that this mechanism of conceptualization through metaphors proceeds from the concrete to the abstract, from the domain of the physical to that of immaterial things. This typical direction of metaphorization they call “grounding”: “what we are claiming about grounding is that we typically conceptualize the nonphysical in terms of the physical—that is, we conceptualize the less clearly delineated in terms of the more clearly delineated” (Lakoff and Johnson 2003, 59). This concept of grounding is clearly crucial to institutional mimesis, and it is striking to note that it can be relevant not only in connection with specific institutional legal structures but also with the meta-institutional concepts which are essential to the practice of law in general: the concepts of power, rights, duty, and rule. In the 1988 article Force Dynamics in Language and Cognition, Leonard Talmy proposes an analysis of basic deontic terms in English (terms such as may, must, and can, corresponding to deontic permission, duty, and power) on the basis of what he calls a “force dynamics,” namely, a question of “how entities interact with respect to force”:

Included here is the exertion of force, resistance to such a force, the overcoming of such a resistance, blockage of the expression of force, removal of such blockage, and the like. […] Though modals have been investigated from many perspectives, there has been general inattention to what appears to lie at the core of their meanings, namely, force opposition. (Talmy 1988, 49, 77)

Some of Talmy’s ideas are quite effectively discussed and summarized in chapter 3 of Eve Sweetser’s 1990 book From Etymology to Pragmatics: Metaphorical and Cultural Aspects of Semantic Structure. Here are some passages in her discussion which are quite relevant for my purposes:
May and must are perhaps the most clearly force-dynamic of the modals. Talmy’s understanding of may in terms of a potential but absent barrier seems to me very reasonable, and can be viewed as a restatement of the standard analysis (e.g. “not require not”) in terms of the more general concepts of forces and barriers. Must is equally readily understood as a compelling force directing the subject towards an act. […] The closest physical analogy to can would be potential force or energy […] and perhaps the best force-dynamic characterization I can give for ability is to say that it is the human and social modality in terms of which we view potential energy in physics. (Sweetser 1990, 52–53)

Here we are looking at a sort of meta-institutional mimesis as distinguished from institutional mimesis, and it seems that there is a sort of logical priority of the former over the latter. The relevant question now becomes whether, in providing an account of these phenomena in terms of conceptual metaphors, it is possible to connect institutional and meta-institutional mimesis in a convincing way, so as to provide a unified cognitive model of the way in which the conceptualization of social institutions can be internalized by way of metaphors. My conjecture is that this can be done in terms of another concept widely used in contemporary cognitive psychology, that of “conceptual blending” or “conceptual integration.” In their The Way We Think: Conceptual Blending and the Mind’s Hidden Complexities, of 2002, Gilles Fauconnier and Mark Turner elaborate on the idea of conceptual metaphors by showing more in general how conceptual structures can result from a “blend” between different conceptual domains. In conceptual blending, two or more input “mental spaces” that contain elements and are structured in frames can, in virtue of a structural similarity between these frames, be connected by way of a more or less arbitrary correspondence relation. This relation gives place to an integration network in which elements are connected by way of their common features and in which these features are projected onto a new, integrated conceptual construct (see Fauconnier and Turner 2002, chap. 3). The crucial feature of the conceptual blend so obtained is that it has an “emergent structure,” that is, it presents new features that were not present as such in the original input mental spaces:

Emergent structure […] is generated in three ways: through composition of projections from the inputs, through completion based on independently recruited frames and scenarios, and through elaboration […]. Composition. Blendings can compose elements from the input spaces to provide relations that do not exist in the separate inputs. […] Completion. […] Pattern completion is the most basic kind of recruitment: We see some parts of a familiar frame of meaning, and much more of the frame is recruited silently but effectively to the blend. […] Elaboration. We elaborate blends by treating them as simulations and running them imaginatively according to the principles that have been established for the blend. (Fauconnier and Turner 2002, chap. 3)

Conceptual blends can be the outcome of different kinds of integration networks. I will focus here on those Fauconnier and Turner term “double-scope networks,” that is, networks in which the input mental spaces from which the conceptual blend is derived are different in nature, in such a way that the projection and merging of some of their features creates a sort of conceptual “hybrid” which is the outcome of metaphoric connection:

A double scope network has inputs with different (and often clashing) organizing frames as well as an organizing frame for the blend that includes parts of each of those frames and has emergent structure of its own. In such networks, both organizing frames make central contributions to the blend, and their sharp differences offer the possibility of rich clashes. Far from blocking the construction of the network, such
clashes offer challenges to the imagination; indeed, the resulting blend can be highly creative. (Fauconnier and Turner 2002, chap. 7)

Institutional mimesis can be explained in terms of double-scope integration networks between, on the one hand, a mental space consisting of some description concerning natural regularities and, on the other, a mental space including the meta-institutional concepts relevant to law, among which the concepts of a power, a right, a duty, and a rule. Here, the selective projection which is typical of conceptual blending metaphorically connects natural features with normative concepts, and the emergent structure of the blend organizes the normative import of the meta-institutional concepts under conditions similar to those present in the original, natural mental space. In this way, the single mimetic institution is produced essentially by projecting features of the natural world under some description of it onto a normative framework, and the clash between facts and norms becomes one of those clashes typical of a double-scope integration network: a clash which is far from being destructive, and which instead gives rise to “highly creative,” metaphorical conceptual structures.

Let me give some examples of this general process by recalling our examples of institutional mimesis—states, corporations, and contracts—and showing how the rationale behind those institutions’ constitutive rules can be the result of double-scope integration networks. This is how I would reconstruct the example of the modern state:

(Mental space 1: Natural facts) Cosmic order – Things – Capacity to influence causally the coming into existence and the behaviour of other things, which for this reason are causally subordinate.

(Mental space 2: Meta-institutional concepts) Legal Powers – Legal Duties.

(Cross-space mapping relation) Causal influences are mapped onto legal powers and duties.

(Conceptual Blend: the modern concept of state) State is an ordered and essentially unique structure, in which superordinate legal entities have power over subordinate entities and these last have corresponding duties.

This is instead how I would explain the example of corporations in Roman law:

(Mental space 1: Natural facts) Corpora ex distantibus – Ability – Exist and act.

(Mental space 2: Meta-institutional concepts) Legal Powers – Legal Rights.

(Cross-space mapping relation) Actual ability to exist and act is mapped onto legal powers and rights.

(Conceptual Blend: Corporations in Roman law) Corporations are abstract objects consisting of separate material elements, and yet they have legal powers and rights.

This is the example of contracts in ancient Roman law (promissiones):

(Mental space 1: Natural facts) Contact between objects – Communion of forces.

(Mental space 2: Meta-institutional concepts) Legal Duties – Legal Rights.
Communion of forces is mapped onto legal duties and rights.

A person can perform a promissio with another person only if he or she offers his or her right hand and the other person accepts it, thus establishing a contact with him or her. A promissio entails a shared set of mutual legal duties and rights.

My conjecture is that, at given times in the development of a certain culture, conceptual blends such as those here described can function as the cultural ground for collectively accepting that the constitutive rules of a given social institution are framed in a way and not in another. In subsequent times, the institution can maintain its structure and the “mimetic” ground for accepting that structure be completely lost in terms of collective (explicit or implicit) intentional content. But, when we consider the institutional structure from a cultural perspective—that is, if we consider it diachronically in its development within a given cultural framework—then we see why it has been shaped in that way. And, in the case of institutional mimesis, the reason hinges on some culturally-dependent description of nature.

4. A Little Bit of Historical Ontology

Let me summarize my discussion. At the beginning of this paper, I have introduced the dichotomy between nature and culture as one which has characterized crucial debates in philosophy of society, and I have maintained that contemporary theories of collective acceptance in social ontology cannot but admit that social institutions are at least partially culture-dependent. My question, then, was whether there is still a role that nature can play in the formation of institutional structures. After distinguishing between two ways in which this can happen—one culture-independent, and one culture-dependent—I have provided three examples of how culture-dependent conceptions of nature can have an impact on the structure of social institutions (a phenomenon I have called “institutional mimesis”): the modern conception of the state, legal corporations in Roman law, contracts in ancient Roman law. Finally, by appealing to contemporary theories of conceptual metaphors and conceptual blending, I have provided a hypothetical cognitive model in which the role of institutional mimesis in the formation of collective beliefs through culture can be explained.

At this point, one may wonder whether institutional mimesis is something more than a simple historical curiosity. I reply that it is rather a matter of historical ontology, in Ian Hacking’s (2002) sense. Historical ontology has to do with “organizing concepts that come into being through quite specific historical processes,” and through which “we are directed to what it is possible to be or to do” (Hacking 2002, 22): presuppositions of our conceptual activity which in some way shape our world and have a direct impact on our way of thinking and acting. Following Foucault, Hacking states that historical ontology is not so much about the formation of character as about the space of possibilities for character formation that surround a person, and create the potentials for “individual experience.” [...] At its boldest, historical ontology would show how to understand, act out, and resolve present problems, even when in so doing it generated new ones. At its modest it is conceptual analysis, analysing our concepts, but not in the timeless way for which I was educated as an undergraduate, in the finest tradition of philosophical analysis. (Hacking 2002, 23-5)
The main focus of Hacking’s approach is the emergence of new scientific concepts, and thus it is philosophy of science, but in another passages he concedes that “there are many ways of bringing new objects into being that have nothing to do with sciences. Pop culture and self-help culture are both full of object-making, and there is a lot to be learned there” (Hacking 2002, 26). I would suggest that social ontology, with its insistence on collective beliefs that shape our social world, cannot but be a primary field in which to study these object-making self-constituting conceptual activities relevant for our self-understanding: Its main focus are social institutions, which by definition have an impact on our way of acting and thus define our “field of possibility,” and these institutions are taken exactly to be objects created by beliefs, namely, collective beliefs. Studying the cultural determinants of collective acceptance in its diachronic dimension is therefore an exercise which should be crucial, and indeed primary, for historical ontology, and this would be historical ontology “at its boldest,” because it would make possible for us to better understand the way in which we frame our social institutions and thus the basic ways in which we learn to act when engaged with the public dimension.

I hope it is clear that the three examples of institutional mimesis I have given above are instances of historical ontology in this last sense. They show us on what grounds contemporary institutional structures have emerged, and perhaps they teach us something on why our legal culture is resistant to changing those structures. Even if most of us do not conceive the State in view of a cosmic order, the idea that such a fundamental social institution must be unique, ordered and hierarchically constructed, has been for at least three centuries a crucial tenet in political and legal philosophy that only now, with the processes of globalization and international proliferation of legal courts, begins to be challenged: But it still resists change. The idea that promises and contracts are a sort of normative bind, an “exchange” of something that requires an idealized meeting of minds, is still alive, and indeed crucial, in private law. The idea that corporations can be seen as *corpora* on their own, abstract *loci* for the imputation of rights and duties, has exerted so much influence on legal culture that an outstanding jurist and legal philosopher such as Hans Kelsen lamented that other ways of conceiving legal personality, more connected with physical personality, were still resistant at the outset of 20th century: In reality, he argued, there is no other way for conceiving personality under the law than considering it as a purely abstract legal personality, the personality of corporations rather than of physical persons (see for example Kelsen 2006, 94).

Hence, if the examples of institutional mimesis I have discussed are correct, nature can play a role in social ontology not necessarily in contrast of culture, but because of culture. Culture has dictated why a given conception of nature became fundamental at a certain point of history. Culture has determined how it was possible for it to have an impact on our social organization. Conceptual blendings of this kind became part of the cultural background against which the content of collective beliefs was formed, producing the constitutive rules of social institutions. And these rules were transmitted through socialization, making it possible for collective acceptance to perpetuate a given institutional setting. In this way, even if the original mimetic root vanished from the minds of people, the conceptual structures which where formed on that basis are still there, they have cristallized through cultural transmission and thus entrenched in our way of conceiving things. Historical ontology thus becomes a fundamental part of social ontology, and with institutional mimesis it shows a new way in which the traditional opposition between nature and culture can be composed at the root of social reality.
5. Two Objections and Conclusion

In the foregoing pages I have tried to argue that nature can have an impact on social ontology in a culturally-mediated way, namely, in the form of conceptions of nature which are imitated by social institutions and which gradually become tacit background assumptions in the conceptualization of those institutions. This process, which I have called “institutional mimesis,” is relative to cultural history and thus makes historical ontology crucial for social ontology.

I will now briefly consider two objections that can be raised against my argument.7 The first of these objections targets the cultural character of institutional mimesis. Indeed, one could say that the examples I have given of institutional mimesis are not the outcome of culture-dependent conceptions of nature but rather of nature-dependent dispositions to interpret our own actions and nature in similar terms. For example, one could argue that Hägerström’s example of promissio is not the evidence of a culture-dependent impact of animism on our conceptions of contracts but rather of our natural disposition to interpret physical movements (both in the natural and in the social domain) in terms of a transmission of forces. My reference to conceptual metaphors could be taken as a further proof of such an interpretation: As already mentioned in Section 3, in fact, Lakoff and Johnson develop their theory in the framework of the “embodied” approach to cognition, arguing that the way we conceptualize reality through metaphors is the outcome of embodied, innate dispositions by which we conceptualize the abstract in terms of concrete objects.

It seems to me, however, that under this description the passage from natural to social ontology requires further explanation in cultural terms. Even if our innate interpretation of physical phenomena requires a connection between movements and trasmission of forces, the point of Hägerström’s example is that of explaining in cultural terms why folk physics became jurisprudence, that is, the passage from our interpretation of physical phenomena to the construction of social reality. Animism is what granted this passage, that is, the idea that physical forces can be viewed as powers and therefore interpreted also in deontic, normative terms. Hence, nature can certainly be shown as being the background of institutional mimesis, but this does not make it independent from historical and cultural considerations. In the same vein Lakoff and Johnson, while stressing the embodied

7 I am thankful to two anonymous referees of this journal for raising these objections, which are very helpful to better clarify the scope of the argument developed in this paper.
character of our dispositions to conceptualize through specific metaphors, nevertheless conceive these metaphors as being also the outcome of cultural specifications, for example when they assume that metaphors must be structured by cultural coherence (see Lakoff and Johnson 2003, chap. 5) and concede that the centrality of specific metaphors is culturally-relative (ibid., 24). Natural dispositions can certainly be the background of social ontology also in cases of institutional mimesis, but they form a background which must be specified in cultural, historically-relative terms: And this is what makes historical ontology relevant for social reality in these cases.8

Here the second objection comes into play. One could insist further against the connection between social and historical ontology by saying that, in Searle’s own terms, the point of social ontology is not to understand from where the ideas shaping social institutions come, but rather how they are produced and maintained in existence. The former question is relevant for historical purposes, but only the latter concerns philosophy: In other words, the philosophical character of social ontology makes it necessarily synchronic and not diachronic. There are two possible replies to this objection: one external to Searle’s theory and one internal. The external reply is perhaps less-interesting, because it has to do with competing ideas concerning the method of philosophy: In particular, it is not clear to me why philosophy should not take historical questions as crucial when dealing with ontological problems, particularly if (as in the case of social ontology) the nature of the objects discussed is necessarily dependent on the history of human beings. I think this is a point that could be drawn from Hacking and raised against Searle’s theory. Such an argument would take us too far, however, hence I will not follow this path and rather proceed with the second reply, which assumes Searle’s theory of social ontology and hence is internal to that theory.

As is known, Searle provides a theory of how “institutional reality locks into human rationality” (Searle 2010, 128) that is based on the concept of “desire-independent reason for action” connected with deontic powers such as obligations, rights, duties, and so on. His idea is basically that the status functions connected with institutional facts entail deontic powers which can motivate human beings by transforming reasons for acting in a certain way into desires to act in that way. Now, in this regard Searle notes:

\[ \text{It is important to keep emphasizing that I say it can be the ground of a desire. I do not think it follows as a matter of logical necessity that everybody who recognizes an} \]

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8 Similarly one could show, for example, that an innate disposition of human beings toward conflict is ultimately the root of all wars, but nevertheless he should concede that the explanation of the contingent causes and features of a specific war depends on military history.
obligation is inclined to fulfill it. The recognition of a desire-independent reason for doing something is already the recognition of a ground for the desire to do it. But in real life it doesn’t always work. (Ibid., 129)

However, he continues, “in most habitual cases we don’t have to think about the matter at all. We simply carry out our daily obligations without reflecting on the underlying logical structure. They become part of our Background dispositions” (ibid., 130).

It seems to me that what is missing here is an account of why and how desire-independent reasons for action connected with status functions can become part of our Background dispositions and thus habitually motivate us: And I think it is difficult to answer such a question on a purely synchronic level. After all, the reason why I habitually act consistently with the presupposition of the State’s superiority over other normative authorities, for example, depends (among other things) on how I have been educated, and I have been educated in that way because the institutional design of State in the social setting I live in has historically evolved in a certain way. Hence, the reason-giving character of social institutions cannot but require a diachronic, and hence historical, perspective. Thus, if my description of institutional mimesis is correct, this phenomenon provides an explanation of how certain normative assumptions have become part of a given culture (and thus are internalized by individuals through socialization), and this explanation must be given also on historical grounds, precisely because the normative character of those assumptions must be explained on a diachronic level. Of course, institutional mimesis is only one of the several dimensions in which this connection between the reason-giving character of institutions, their entrenchment in Background assumptions, and their historical development within a given culture takes place. But it is a dimension in which the dialectics between nature and culture has peculiar features that are worthy of further examination.

References


