"Fenomenologia dell'istituzionale". Does "to Institutionalize" something mean, in fact, to document it?

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p. 37-52

Abstract

Referring to Ferraris' "Fenomenologia dell'istituzionale (Phenomenology of the Institutional)" is very appropriate to insist on some difficulties with the notion of "institution". My intent is twofold: on the one hand, I would like to claim, against Ferraris and with Searle, that a theory (or phenomenology) of the institution is always the most important task in the construction of social ontology. Along the way, I would like to point to the importance of violence (and power) and violent strategies in the creation and maintaining of institutions. By answering the question in the sub-heading of this paper, my intention is to understand Ferraris' project, firstly, as a necessary addition to the ontology of John Searle. But, also, I would like to argue that this project could "incorporate" this same theoretical attempt that precedes it. The future of Ferraris' project is in political and legal theory, in the understanding of the great and truly "ultimate institutional structures". Ferraris, as inheritor of and contributor to the great project of Paul Otlet (*Mundaneum*), surpasses "the government as ultimate institutional structure", and puts it in the place of the State-Europe and *la Cité mondiale*.

In section 5.1.1, "Documents", of his book *Documentalità*, Ferraris writes:

- **1** "Proseguire nel dettaglio la fenomenologia dell'istituzionale e della differenza rispetto al socia (...)

Elaborating in detail the phenomenology of the institutional and of its difference from the social seems to me secondary with respect to a more substantial point, that is to highlight the role that documents play in the social, and – *a fortiori* – in the institutional. Therefore, a theory of social objects and their specialization in institutional objects naturally evolves in a theory of documents**1**.

- **2** Cf. Searle 2009: 252. "I have not ventured far on the subject of imitation in The Construction of (...)

- **3** Searle 2006: 23.

- **4** Searle 2005: 22.

- **5** Husserl 1973a: 98-107. The titles of appendices XVIII and XIX in the original are: "Die Gegebenhei (...)

- **6** Jaeggi 2009: 528.

- **7** Smith admits Ferraris' engagement, even if he does not fully understand him and asks for additiona (...)

- **8** Ferraris 2009: 183.

- **9** Searle 2007: 96; Searle 2010: 161.

- **10** Otlet 1989: 419. "The institution is a free grouping of forces of the will, a federation of organi (...)

2It seems to me that Ferraris mentions only once in his texts the phrase "Fenomenologia dell'istituzionale" or Phenomenology of the Institutional (institutionality or institution), and that it is

very appropriate for me to insist once again on some difficulties we have with the word or the figure "institution". My intent is twofold: on the one hand, I would like to claim, against Ferraris and with Searle, that the theory or phenomenology of the institution (Searle mentions the "ontology of the institution" or the ontology of the creation of the institution[2], "institutional phenomenon" or "institutional phenomena")[3] is always the most important task in the construction of social ontology, even though the theory of the institution is "still in progress", or "still in its childhood"[4]. Along the way, I would like to try to point out the importance of violence (and power) and violent strategies during the creation and maintaining of institutions, as well as to describe by way of an example of a term from Husserl (and Kant) and its translation and reception in French philosophy of the 20th century, another problem and confusion regarding the institution. It is interesting that both Husserl's and Searle's projects are marked with a common resistance towards writing, even though we find in both of them a sketch of a very timid "*documentalità*": with Searle it is the idea of "official documentation" and in Husserl "*der Ausweiss*" (certification). And that's not enough: two short appendices authored by Husserl a hundred years ago and dedicated to social ontology and to the community and norms are incredibly convergent with Searle's intentions. We can say without reservation that these appendices are a precise sketch of Searle's long-term effort to construct a new social and political ontology[5]. On the other hand, I am interested in the importance of Ferraris' theory of documents or documentation for the making of institutions or the institution, for making a good institution[6], but also for the construction of a new theory of the institution, which is our main goal, I think. Thus, by answering the question in the sub-heading of this paper, does "to institutionalize" mean in fact "to document", my intention is to understand Ferraris' project in the first place as a necessary addition to the ontology of John Searle (or Barry Smith[7]), on multiple different levels (the most important being that the document intensifies the normative effect of the use of language because it contains explicitness and stability – that it is given once and for all)[8]. But also, I would like to argue that in the future this project could "incorporate" these same famous theoretical attempts, which precede it. In particular, I would like to argue that the future of this project is in political and legal theory, in the understanding of the great and truly "ultimate institutional structures". Ferraris, as the inheritor and contributor to the great project of Paul Otlet (*Mundaneum*), surpasses "the government as ultimate institutional structure"[9], and puts it in the place of the state-Europe and *la Cité mondiale*[10].

- **11** Searle 2005: 18; Searle 2006: 27-28.

- **12** Searle 2005: 10-11; Searle 2009: 48.

- **13** Searle 2005: 22.

- **14** Searle 2010: 110.

3Does "to institutionalize" indeed mean to "document", to distribute and add documents, or to forward and transfer documents? More precisely, is the document or "*documentalità*" a particular protocol that can bridge and secure (ease) social objects into institutional objects? Is the institution made in this way? If we say that something (a fact, for example) is very well documented, are we within the space of the institution or institutional facts? It seems to me that questions constructed in this way could to a great extent suit the context and rhythm of Searle's expositions and his regime of use of arguments. Exclusively when he speaks of the institution, Searle not only has no intention of analyzing the ordinary use of the word "institution", but he does not even find it important whether what he speaks of when he talks about the institution has anything to do with institutional reality. So, regardless of Searle being most interested "in getting at the underlying glue that holds human societies together"[11], in order to begin to think the institution at all, according to Searle, it is necessary to understand that the institution does not "constrain people as such", but produces new power relations: institutions are *enabling* because they create (deontic) powers or human power, and "that institutional structures create desire-independent reasons for action"[12], that "the creation of an institutional fact is, thus, the collective assignment of a status function"[13], that the institution of language is at the same time the foundation of all other institutions[14], etc. Two remarks: the tenet that the institutional structures create desire-independent reasons for action could not be correct, for example, because it does not essentially respond to the first famous attempts in Hume at thematization of the institution, and the relationship between instinct and institution. Can sexuality not be satisfied within marriage, or greed within the institution of private property?

4As for the second remark:

- **15** Hume 1777: 15; Deleuze 1953b: 10. Cf. Deleuze 1991: 46-47. " It is a fact that a drive is satisfie (...)

These words too, inheritance and contract, stand for ideas infinitely complicated; and to define them exactly, a hundred volumes of laws, and a thousand volumes of commentators, have not been found sufficient. Does nature, whose instincts in men are all simple, embrace such complicated and artificial objects, and create a rational creature, without trusting anything to the operation of his reason?
But even though all this were admitted, it would not be satisfactory. Positive laws can certainly transfer property. It is by another original instinct, that we recognize the authority of kings and senates, and mark all the boundaries of their jurisdiction? Judges too, even though their sentence is erroneous and illegal, must be allowed, for the sake of peace and order, to have decisive authority, and ultimately to determine property. Have we original innate ideas of praetors and chancellors and juries? Who sees not, that all these institutions arise merely from the necessities of human society?
All birds of the same species in every age and country, built their nests alike: in this we see the force of instinct. Men, in different times and places, frame their houses differently: here we perceive the influence of reason and custom. A like inference may be drawn from comparing the instinct of generation and the institution of property**15**.

- **16** Searle 2002: 170.

- **17** Searle 2002: 171.

- **18** Briet 1951: 19.

5The second remark could eventually also follow from the first one, and could be substantiated by some of Hume's thoughts. It concerns the relationship of institutions and Brute Force, which Searle develops and continuously edits in later years as part of his thinking about power. It seems now that the origin of this problem (perhaps it is now possible to call it a problem) can be found in Searle's discovery that there exists the so-called extra-linguistic institution, and which, during his last years and endless explanations and corrections, he managed to make yet more complicated. That is to say, in thinking about performatives as declarations, Searle differentiates *extra-linguistic* declarations "such as adjourning the meeting, pronouncing somebody man and wife, declaring war, and so on – and *linguistic* declarations – such as promising, ordering and stating by way of declaration"**16**. Searle names these non-linguistic cases as prototypical of declarations and their main characteristic is that they are not derived from semantics. In a well-known example which Searle quotes several times in different places and in different ways, a man can divorce his wife by uttering three times the sentence "I divorce you". The divorce will in certain Muslim countries actually take place, says Searle, because speech acts in these cases are derived from legal or theological powers**17**. "Power" (or powers) is a word which is used here perhaps for the first time in this way, whereas recently, as we know, many of Searle's texts are organized around that word "force", and related ones such as "violence" or "constraint". For us it might be important that what Searle names as power or *extra-linguistic* declaration, could also be named a document. War has been declared because the decision was reached and the declaration dispatched to the other side, the meeting was suspended because someone holds a warrant, a piece of paper, and exercises an authority, while the procedure of repetition of the sentence "I divorce you", is in fact a quote found in codices and religious rules of some Muslim minorities and tribes. For war to be declared and of course begin, it necessarily needs to be written down somewhere. A "*homo documentator*" is necessary**18**. A written declaration is needed, which is nothing else but a *documentum* or its prototype – *instrumentum* (a statement made publicly, or in the presence of a few witnesses). So, what Searle in this place names "power(s)" comes in fact from the document and the consent that precedes the *linguistic* declaration, and in a sense even institutions in general. What will be a new problem, which here ought to remain aside, is that even so-called speech acts, which are derived from semantics (promising, ordering, stating, etc.), could also follow from various collections of rules and laws, and have a documentary origin.

- **19** Hume 2010: 310.

- **20** Searle 2010: 141-142.

6Searle's reconstruction of the term "power", which in the first stance is set in a sort of *extra-linguistic* or pre-linguistic sphere – that is there is something which has a non-linguistic or non-lingual power to institutionalize – contains two simultaneous processes. Searle firstly introduces several new concepts (background, authority, political power, political ontology), which ought to soften and set aside the considerations of the origin of social facts and institutions. The force or violence that is found in the foundations of authority and institutions, which Hume talks about ("Time and custom give authority to all forms of government, and all successions of princes; and that power, which at first was founded only on injustice and violence, becomes in time legal and obligatory"[19]), are displaced elsewhere – and their goal is to protect institutional power. As if Brute Force (or different coercive mechanisms and coercive powers that characterize the institution itself) protected the institution from itself. It seems to be Searle's understanding – this being the second simultaneous operation – that the process of institutionalization of social facts or the process of turning social facts into institutional ones, can be secured if and only if the institution protects itself from some of its own disloyal parts ("many people lie, steal, and cheat"). The function of the police and the military, who "presuppose the deontology rather than being inconsistent with it"[20], means that the function of the threat of force or a monopoly on organized violence, is *de facto* to break the resistance of counter-institutional actions or actions, which in themselves have desire-dependent reasons. On this second level, or from this second perspective, what would constitute the source of police or military power?

- **21** Benjamin 1921: 248-249; Hauriou 1986: 89.

- **22** Searle 2010: 152-155.

7I am not sure that all the uses and wanderings of the term "power" in the construction of Searle's argument can be explained with precision. However, I am convinced that the introduction of "the document" or Ferraris' "*documentalità*" could strengthen this argument, and perhaps define in a better way Searle's real intention. As a preliminary comment, even though I would like to set this aside for now, I would be remiss not to mention that Searle's thinking about power in light of this famous statement by Hume, really reminds one of Benjamin's differentiation between violence which creates right and violence which protects it, as well as certain positions taken by Maurice Hauriou in the theory of the foundation of the institution[21]. In that vein, although he analyzes certain texts by Michel Foucault (unfortunately not the ones which explicitly regard the institution[22]) in his latest book, Searle's position is entirely opposed to Foucault's. Searle is foremost interested in the power of the institution or the power that founds the institution, and which the institution then distributes preventing and abolishing any counter-institutional elements. In contrast, Foucault, in order to analyze institutions, insists on starting from power relations that precede the field of the institutional, and on resisting the institution ("*Soyons très anti-institutionnaliste*"):

- **23** Foucault 2001: 1058.

In question is not the importance of institutions in power relations. But rather to suggest that institutions should be analyzed starting from power relations, and not the other way around; and that these relations are to be found prior to these institutions, even when they take hold and crystallize within them[23].

- **24** For Husserl too the state has a special place and represents an entity different from everything e (…)

8As opposed to Searle, in Foucault there is no "ultimate institutional structure", no special or basic instance that protects and regulates the process of institutionalization. According to Foucault, the analysis of power as resistance to the institution or institutions is really the only process by which the institution is institutionalized. No institution simply exists, but rather there is only the process of institutionalization and endless codification. It seems like a good idea to me to define the state that has a monopoly on violence, and is according to Searle the "ultimate institutional structure"[24], and the absolute paradigm of power, as a collection of documents. The document – let us say with Ferraris that this is the document in the "strong" sense of the word (the constitution being the first and last in a series of such documents) – is found in a place of power and is power. We then succeed in demystifying the secret reason for authority and the origin of power that causes certain difficulties in Searle's argument, even if that leaves us with a new and complicated task of reconstructing the system and order of documents. The threat of violence and violence are possible because there is a document that limits that violence, and at the same time, a document can be reconstructed, changed and weakened with another document. The right of a state to secession, the integration, for example,

of the Bulgarian state into the European Union, or perhaps an integration of the Usa into a world state, is a documentary game. In the text "What is an institution?" Searle mentions the document as an addition to, but not as a condition or background of any deontology. This precisely is the problem.

- **25** Searle 2005: 15. Cf. Searle 2004: 22.

But the deontic powers stop at the point where the larger society requires some official documentation, they lack full deontic powers. Collective recognition is not enough. There has to be official recognition by some agency, itself supported by collective recognition, and there have to be status indicators issued by the official agency**25**.

9A hundred years before, Husserl has the same problem with mutual recognition or collective recognition. Here is his suggestion:

- **26** Husserl 1973a: 104.

How did this being a Master / Servant (*Herr-und-Diener sein*) at all happen? I notice Johann, my servant. In this way, I do not notice him yet as a servant, if we can use the word "notice" at all. It is more a registration (*Ausweisung*), a "fulfilling" (*Erfüllung*). However, the registration (certification) (*Ausweis*) is given in the certificate B, according to which he is ready to follow my will in regards this or that action, ready to execute a certain task to which he is committed, such that this certificate is based simply in that Johann, in executing my order, is subject to me**26**.

- **27** Ferraris 2009: 296-297.

10The insufficiency that Searle speaks about refers to the difficult transformation or transfer of a social fact into an institutional one. To reinforce or stabilize collective recognition (institutionalization is precisely this process), it is necessary to *de facto* "draw" or "extract" (or activate) the document from some, in this case, third place. This emitting of the document or its transfer from place to place, could be explained with a sort of specifying of the social. This relation between the social and the institutional is compared by Ferraris to the relation between "*archiscrittura*" and "*scrittura*"**27**, and the prototype of this distinction is certainly Husserl's pair *Urstiftung / Stiftung*.

- **28** Merleau-Ponty visited Leuven for the first time on 1 April 1939 (he returned in 1946). Of the many (…)

- **29** In § 38 Lévinas and Gabrielle Pfeiffer (Alexandre Koyré examined this translation) translate *Ursti* (…)

- **30** Ricœur, immediately upon his arrival from Leuven with the first translation of Husserl's 1935 "Vie (…)

- **31** Here I am referring to Michel Foucault's project. Cf. Foucault 1971: 9-15.

- **32** "Philosophy is the 'innate entelechy' of Europe, the 'proto-phenomenon' of its culture". Ricœur 19 (…)

11Apart from the verb *stiften* and *urstiften,* Husserl uses the German nouns *Stiftung*, *Urstiftung*, *Nachstiftung* or *Endstiftung*. Even today, despite the fact that there is still a great deal of time before we can expect all of Husserl's manuscripts to be published, it is relatively easy to defend the importance of Husserl's idea and the importance that these, still strange, words have for Husserl's work in general. When the newly built archive opened its doors to its first visitors in Leuven, before the Second World War (one of the first visitors being Merleau-Ponty**28**) or right after the war (the first one certainly being Paul Ricœur), it was impossible to imagine the strength of Husserl's investment and insistence on the pair *Stiftung / Urstiftung*. The responsibility for concealing the uniqueness of these words is borne by Emmanuel Lévinas, who translates the word *Urstiftung* in *Cartesian Meditations* (1929) in two ways**29**. Lévinas, who never worked in the archive, could be a very good example of several possible suppositions, (1) that the importance of Husserl's "unknown" strategies can only be found in unpublished manuscripts, (2) that completely different generations of users of Husserl's archives (in Leuven or Paris) witness an identical belief in the importance of Husserl's discovery (Derrida or Lyotard or Richir), (3) that Merleau-Ponty's

translation (*Stiftung* is *institution*) dominates and has a bigger influence on the latter interpretations of Husserl than, for example, Ricœur's first solutions of the translation**30**, (4) that precisely the translation of *Stiftung* as *institution,* makes Husserl a purely "French matter" not only because it comes directly from the archives without any influence of German reception or German scholars, incorporates Husserl into the juridical and political milieu of France and enables it to be interpreted from leftist and Marxist positions, and finally, (5) (*Ur*)*Stiftung* as a (proto)institution, brings phenomenology into completely differing texts of important French philosophers who haven't read Husserl in the archive, but who then "with him" necessarily think institution as such**31**. This final point is supposed to introduce the idea that the reading, translating and influence of Husserl, which began in his Belgian archive and continued in Paris, can institute what we can tentatively call "Continental Philosophy". This means that Husserl's strategy with *Stiftung / Urstiftung* can be the source of this syntagma "Continental Philosophy" because the thinking of the institution of philosophy (the question "What is the institution of philosophy?" hides the fundamental question "What is philosophy?") is structured as the thinking of Europe, as the thinking of humanity (*Menschenheit*)**32** and as the thinking of an encounter with the other (intersubjectivity, community).

- **33** Merleau-Ponty 1966: 95.

12Merleau-Ponty translates the word *Stiftung* – "the beautiful word of *Stiftung* (*le beau mot de Stiftung*) which Husserl used to signify the infinite fecundity of every moment in time" – as institution**33**. What is, therefore, an institution and does this Latin syntagma – *in statuere* – truly carry over Husserl's intention to find one operation or one form that differs from all the previous ones that he used? It is about a creative act that begins something, which provides stability to something, and which should differ from the words *Begründung*, *Letztbegründung*, *Konstitution*, *Setzung*, *Fundierung* etc.

- **34** Recently Mario Ricciardi brilliantly described, using an analysis of the term "institution" by Ric (...)

- **35** Therefore, in contrast to the word "foundation", which assumes sitting and the stability that sitt (...)

13I will, preliminarily and without taking too long, list several meanings of the word "institution", which should be compared to Edmund Husserl's intentions**34**.Beyond giving a beginning to something (to originate, to initiate; in French *instituer* means an act through which something is inaugurated) and beyond building (establishing) something on the land of the master (institution is always connected to architecture, to an object), to institute shares the same semantic line as the Latin word *status*. *In statuere* is to make something stand up (without help, without holding it up, rather having it stand by itself) or hold itself up vertically**35**. The institution secures its status through statutes, that is, through internal rules (*institutes*). The second, equally important corpus of the meaning and use of the verb to institute, refers to the openness of an institution to: (1) signify or create a successor (a deal between generations), (2) to institute means to give instruction, educate (in this instance the institution and documentation overlap) and (3) to institute presumes the creation of a reserve or the creation of a place for something that has yet to come, is forthcoming, and is still absent or invisible.

- **36** Kant 1923: 349.

- **37** "[...] dass ohne Gewalt kein Recht gestiftet werden kann, so muss dem Recht die Gewalt vorausgehen, (...)

14As I pointed out earlier, the phrase *in statuere* into which Husserl's idea is supposed to be translated and transformed, already has a rich and fertile political-law tradition in France. This tradition follows Kant foremost, for whom peace is something necessarily established (*Frieden stiften*)**36**. Only in the last decade of his life Kant frequently uses the words *stiften* or *gestiften*. *Stiften,* without a doubt, implies violence or force. Kant believes, and in many places clearly manifests (several times in the notes on his manuscripts) this belief, that something can be established, or rather institutionalized, through violence or force. That is to say that the act of violence is the inaugural act of any establishing, including the establishing of peace. For example, § 55 *Metaphysics of Moral* begins with Kant's hope that it is possible to establish a condition that comes close to right, through war (*um etwa einen dem rechtlichen sich annähernden Zustand zu stiften*). In the lectures from the winter semester of 1793/94, which were prepared for publication by Johann Friedrich Vigilantius (*Metaphysik der Sitten Vigilantius*), Kant is quite distinct:

"because without violence right cannot be established, therefore violence must precede right, instead of rule based on rights founding force (strength/power). Take people *in statu naturali,* they are *ex leges,* apart from legal status, without any law, only some outside force, keeping them asleep"**37**.

15But let us return to France. Merleau-Ponty, in his notes on the course "L'Institution dans l'histoire personnelle et publique" (1954-1955), points out that it is precisely, Husserl, who through his pair *Stiftung / Urstiftung,* manages to find the meaning of permanent revolution:

- **38** Merleau-Ponty 2003: 42-43.

Revolution and institution: revolution is re-institution which has as its goal the overthrow (*renversement*) of the preceding institution [...] Revolution is a return to the source, the awakening of something that derails the founding idealizations, their context, the future which is the past, the future which is a much deeper comprehension of the past, which is *gestiftet* (*institute*) instituted thought this past in a dual way. The double aspect of institution: it is itself and it is on the other side of itself, restriction and openness**38**.

- **39** Merleau-Ponty 2003: 101. Deleuze's solution from this period is the most complicated and difficult (...)

- **40** This is Emile Durkheim's position, but also that of French institutionalists (Maurice Hauriou, Geo (...)

- **41** "Les institutions, qui sont l'âme de la République, nous manquent". Saint-Just 1988: 191.

- **42** One of Jacques Derrida last lectures was "A Model of Philosophy as a Counter-Institution," held 23 (...)

- **43** The Frenchman Descartes is *Urstifter* ("the primal founder, not only of the modern idea of objectiv (...)

- **44** In a document numbered 32 "Teleologie in der Philosophiegeschichte" written in 1936 and during Jun (...)

16But these sentences don't contain only Merleau-Ponty polemics with Sartre, another French phenomenologist, nor does he just evoke old questions in connection with Marxism or Trotsky. During a course in which he meticulously analyses Marx, Proust and Freud, Merleau-Ponty strives to show the advantage of the word "institution" ("An institution is not the position of a concept, but of a being, the openness of a field")**39** in relation to law, contract or constitution**40**. This is nothing else but the repeating of tradition: (1) while listening to Merleau-Ponty we can hear Saint-Just's celebrated calls for the introduction of institutions into the Republic because they are its soul**41**; (2) when Merleau-Ponty speaks of a double aspect of institution he is in fact repeating Saint-Simon (the creator of the expression *contre-institution* "counter-institution" [1820])**42**; (3) the relation of restriction and openness of the institution represents the *de facto* convertible and incorporative power of the institution (within the institution consciousness (Bergson), custom, *habitus*, energy, instinct are converted).In order to presently examine and explain institution of *(Ur)Stiftung* into this complicated field covered by the words *in statuere* and *institution*, in order to discover the strength of Husserl's intention and how far his opinion exceeds this context – in a word, does the introduction of Husserl into French philosophy mean to institute a new (absolute) *Urstifter*43, a new Edmund Husserl, who then institutes not just continental or analytical but also pure philosophy**44** or the institution of philosophy as such? I propose three different visions or versions of Husserl's intervention. Only the third one, which was provoked by one of Ricœur's fragments, written more than 30 years ago, could possibly justify my humble endeavor.

- **45** Lecture IV (6 October 1967), Ingarden 1992: 124.

17(1) Ingarden, in his 1967 Oslo lectures**45**, insists that the gradual transformation of the word *Setzung* (position; *setzen,* to set up) into *Stiftung,* signifies Husserl's path towards idealism. Husserl substitutes the word *Setzung* (which can easily be found in Kant and Neokantians) starting with *Meditations* and *Formal and Transcendental Logic*, in order to reinforce the active strength of intentionality. Idealism is not to find one thing, or to accept and confirm its existence; idealism is to create that one thing, to enable the revelation of its being, the revelation of the thing itself. Ingarden points out that this is true in some cases, for example when a university is instituted,

when through an act (*stiften*) the being of a university is uncovered. But what if a thing is in question? Ingarden is pretty certain that, from 1929 Husserl changes the form of every act of comprehension and introduces into it a possibility to institute (*stiften*) something (in this way the transcendental and intentional overlap as they are able to create).

- **46** Merleau-Ponty 2003: 92. Derrida 1989: 138, 141.

18(2) Another perspective weakens Husserl's idealism if it accepts his insistence of the importance of history. Namely, there exists no order of the ideal (geometry is Husserl's celebrated example) that through language (written and spoken) doesn't simultaneously secure its own objectivity and its own non-temporality. Language is what constantly re-actualizes and once more completes (*Nachstiftung*; reinstitution) what has already been originally instituted. However, this is precisely the fundamental paradox of every *Stiftung* which Husserl insists upon: how come something which is at the beginning, which is potential, which is not present in this actual act, how come this first and potential implicit something is in every work and in the actual (Husserl calls this *leistend* in act)? Three questions: "how does every *Stiftung* renew and repeat *Urstiftung*?", "how is it that *Urstiftung* is in every *Stiftung*?" and "how is it that the future is anticipated within the *telos* of a proto-act (*Endstiftung* is already in *Urstiftung***46**)"? These questions open the door to a series of famous questions: how is potential, reserve, delay, surplus etc. possible? One more thing: during the reoccurrence of the proto-institution (*Urstiftung*) by every forthcoming *Stiftung*, language simultaneously opens a possible communal world in which I and another, the past and the present, cross paths.

- **47** This text, which has still not been published in French, was first released in Italian in 1975. Ri (…)

- **48** In question is a manuscript numbered 28 "Problem: Transfer (Tradition) and *Urstiftung*" (*Übernahme* (…)

19(3) The third interpretation of Husserl's pair *Stiftung / Urstiftung*, is provoked by a short excerpt, found on page 181 of the text "The problem of the foundation of moral philosophy", authored by the long-time director of Husserl's archive in Paris Paul Ricœur**47**. Despite not quoting Husserl, Ricœur implicitly writes by Husserl's hand, using a newly published manuscript**48**. Not only does the existence of this text refute Ingarden's statement (and not only his) – Husserl wrote about the primal institution much earlier than 1929 – this text clearly confirms that Husserl's thoughts about the community are at the beginning of this adventure concerning the *Stiftung*. Ricœur writes:

With institutions a new factor of passivity appears which is compounded with the passivity of the self-actualization of each person by himself and with the other passivity which corresponds to the initial intersubjective situation of inequality which we never stop correcting. [...] I mean that we can only act through structures of interaction which are already there and which tend to unfold their own history which consists of inertias and innovations which themselves are sedimented in their turn. [...] I introduced the word institution here because it seemed to me to respond to a double criterion: on the one hand, every institution leads back to an *Urstiftung* – a primordial mythical founding – so that institution signifies that I am already within the instituted. [...] I am never before the beginning of every institution, I am always in an after-the-fact situation. A second indication is furnished by the failure of every effort, phenomenological or otherwise, to draw the social and the political from the immediate I-you relation and, as a consequence, to do without the middle term. This dream of immediacy, of face to face relations without the intermediary of a middle term is well-known. It is the dream that dialogue should be the measure for every human relation. But we also know that even the most intimate dialogical relation is possible only on the basis of institution [...].

- **49** Derrida 1990: 259. "La première tâche de la philosophie: la réactivation de la genèse". Despite be (…)

20Apart from Emanuel Lévinas' implicit critiques (now, it is completely transparent why Lévinas does not mention Husserl's *(Ur)Stiftung* anywhere), it seems to me that, already at this point, the task of philosophy to institute, to generate and to regenerate the community, is revealed. This is the beginning that ends with Husserl's final texts concerning the absolute and relative primal institution of the institution of philosophy (or pure philosophy). The first task of philosophy is not just, as Derrida wrote in 1954, "*la réactivation de la genèse*" (the genesis of anything else outside of philosophy), but also "*la réactivation de SA genèse*"**49**. This task of institutionalization is one and the same.

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Note

1 "Proseguire nel dettaglio la fenomenologia dell'istituzionale e della differenza rispetto al sociale mi sembra una operazione relativamente secondaria rispetto a un punto di maggiore sostanza, ossia mettere in evidenza il ruolo che, nella realtà sociale e a maggior ragione nella realtà istituzionale, viene assolto dai documenti. Così, una teoria degli oggetti sociali, e della loro specializzazione in oggetti istituzionali, evolve naturalmente in una teoria del documento". Cf. Ferraris 2009: 298.

2 Cf. Searle 2009: 252. "I have not ventured far on the subject of imitation in The Construction of Social Reality because it did not have a central place: I was not looking to show how new institutions are born by imitating old ones, but rather to determine the ontology of the creation and sustaining of these institutions".

3 Searle 2006: 23.

4 Searle 2005: 22.

5 Husserl 1973a: 98-107. The titles of appendices XVIII and XIX in the original are: "Die Gegebenheit konkreter sozialer Gegenständlichkeiten und Gebilde und die Klärung auf sie bezüglicher Begriffe. Soziale Ontologie und deskriptive Soziologie" and "Gemeinschaft und Norm".

6 Jaeggi 2009: 528.

7 Smith admits Ferraris' engagement, even if he does not fully understand him and asks for additional explanations (see Smith in the present volume). Searle mentions the document or "official documentation" only a few times, although in his last book for the first time he makes explicit the importance of writing in social ontology (Searle 2005: 15; Searle 2010: 115-116). The resistance to the importance of documents is likely the result of decades-long antagonism (in classic John Wayne style) of Anglo-Saxon philosophers towards theories of the text and writing to be found in French philosophers, mainly Jacques Derrida (or intellectual nonsense à la Derrida) (see Smith in the present volume), one of Maurizio Ferraris' main inspirations. Derrida himself rarely mentions the document and the differences between texts and documents (Derrida 1967: 214).

8 Ferraris 2009: 183.

9 Searle 2007: 96; Searle 2010: 161.

10 Otlet 1989: 419. "The institution is a free grouping of forces of the will, a federation of organisms, a union of national and international associations". Cf. Otlet 1989: 417. Ferraris' book is structured in the same way and the chapters are marked like in Paul Otlet' book. Both books begin with quotations from poems: Ferraris' book opens with Mallarmé, while the verses in Otlet's book are Verhaeren's.

11 Searle 2005: 18; Searle 2006: 27-28.

12 Searle 2005: 10-11; Searle 2009: 48.

13 Searle 2005: 22.

14 Searle 2010: 110.

15 Hume 1777: 15; Deleuze 1953b: 10. Cf. Deleuze 1991: 46-47. " It is a fact that a drive is satisfied inside an institution. We speak here of specifically social institutions, not governmental institutions. In marriage, sexuality is satisfied; in property, greed. The institution, being the model of actions, is a designed system of possible satisfaction. The problem is that this does not license us to conclude that the institution is *explained* by the drive. The institution is a system of means, according to Hume, but these means are oblique and indirect; they do not satisfy the drive without also constraining it at the same time".

16 Searle 2002: 170.

17 Searle 2002: 171.

18 Briet 1951: 19.

19 Hume 2010: 310.

20 Searle 2010: 141-142.

21 Benjamin 1921: 248-249; Hauriou 1986: 89.

22 Searle 2010: 152-155.

23 Foucault 2001: 1058.

24 For Husserl too the state has a special place and represents an entity different from everything else. The state can keep its identity for its duration, remains unchanging and unique through time, despite the transformations, changes, death of its officials and changes in government. Cf. Husserl 1973a: 101-102.

25 Searle 2005: 15. Cf. Searle 2004: 22.

26 Husserl 1973a: 104.

27 Ferraris 2009: 296-297.

28 Merleau-Ponty visited Leuven for the first time on 1 April 1939 (he returned in 1946). Of the many texts, he consulted *Die Krisis*, followed by a series of manuscripts marked D (*primordiale Konstitution, Urkonstitution*) which still remain unpublished, etc. Cf. Van Breda 1962: 410-430.

29 In § 38 Lévinas and Gabrielle Pfeiffer (Alexandre Koyré examined this translation) translate *Urstiftung* as *formation première*, and in the famous § 50 as *création première*. Husserl 1992a: 135, 181. Dorion Cairns always translates *Urstiftung* as "primal instituting". Husserl 1969: 80, 111. When translating the word *Stiftung*, Cairns gives advantage to the word "institution" or "instituting" over the word foundation. Cairns 1973: 108.

30 Ricœur, immediately upon his arrival from Leuven with the first translation of Husserl's 1935 "Vienna Conference", in his first text concerning Husserl "The Sense of History", from 1949, speaks of history as a most important moment in the understanding of ourselves and cites § 15 of the book *Crisis* whose title is "Reflections on the Method of our Historical Considerations":

"That sort of elucidation of history by which we return to ourselves in order to question the original foundation (*die Urstiftung*; *la fondation originelle* in French original) of the goals which connect the chain of the generations to come…, this elucidation, I say, is only the authentic coming to awareness by the philosopher of the true end of his willing, of what is willing in him, comes from willing, and is willing as such from his spiritual ancestors".

"I can know who I am, continues Ricœur, through uncovering an origin (*Ursprung*), a primal institution (*Urstiftung*; *une proto-fondation*, in French), which is also a project toward the future horizon, a final institution (*Endstiftung*; *une fondation finale*)". Ricœur 1967: 155; Ricœur 1949: 293-294.

31 Here I am referring to Michel Foucault's project. Cf. Foucault 1971: 9-15.

32 "Philosophy is the 'innate entelechy' of Europe, the 'proto-phenomenon' of its culture". Ricœur 1967: 152.

33 Merleau-Ponty 1966: 95.

34 Recently Mario Ricciardi brilliantly described, using an analysis of the term "institution" by Riccardo Orestano, how the translation of Samuel Pufendorf's *De iure naturae et gentium* into French changed the meaning and use of the word "institution". Jean Barbeyrac translates Pufendorf's *vocabulum impositionis* using the term institution (Ricciardi 2007: 169). It is interesting how Barbeyrac explained his solution. Since he could not find an adequate word for *imposition*, he is forced to defend his solution. "*Institution* is used most often for anything invented and established, in contrast to what issues from nature. [...] Our author wants to say when he says that moral things are such by *imposition*, and not *in themselves or by nature*" ("*Institution* se dit le plus souvent de tout ce qui est inventé et établi, par opposition à ce qui vient de nature. [...] Notre Auteur veut dire lorsqu'il pose en fait que les choses Morales sont telles par *imposition*, et non pas d'elle-*même ou par leur nature*"). Cf. Orestano 1982: 175.

35 Therefore, in contrast to the word "foundation", which assumes sitting and the stability that sitting affords one (*fundamentum* is the back side, anus). Fund means money. The colloquial meaning of *Stifter* is Founder; *Anstifter* is Initiator, while *Stiftung* means a Foundation which provides stipends or grants for successful projects.

36 Kant 1923: 349.

37 "[...] dass ohne Gewalt kein Recht gestiftet werden kann, so muss dem Recht die Gewalt vorausgehen, statt dessen der Regel nach das Recht die Gewalt begründet muss. Annehme Menschen in statu naturali, sie sind ex leges, in keinem rechtlichen Zustande, sie haben keine Gesetze, noch äußerliche Gewalt, die sie aufrecht erhält". Kant 1975: 515.

38 Merleau-Ponty 2003: 42-43.

39 Merleau-Ponty 2003: 101. Deleuze's solution from this period is the most complicated and difficult to translate into English: "*L'institution, c'ést le figuré*". Deleuze 1953a: 39.

40 This is Emile Durkheim's position, but also that of French institutionalists (Maurice Hauriou, Georges Renard, Joseph T. Delos), important jurists and political scientists between the two wars.

41 "Les institutions, qui sont l'âme de la République, nous manquent". Saint-Just 1988: 191.

42 One of Jacques Derrida last lectures was "A Model of Philosophy as a Counter-Institution," held 23 August 2002. Derrida 2005: 246-261.

43 The Frenchman Descartes is *Urstifter* ("the primal founder, not only of the modern idea of objectivistic rationalism but also of the transcendental motif which explodes it"). Cf. Husserl 1970: 73. At the very end of his life Husserl differentiates between the absolute and relative proto-institution (Document 33 "Die Unterscheidung zwischen absoluter und relativer Urstiftung", *Sommer* 1937). Cartesian's intention is radical and absolute, just as proto-institution of Greek philosophy. Husserl 1992b: 421-423.

44 In a document numbered 32 "Teleologie in der Philosophiegeschichte" written in 1936 and during June and July of 1937, Husserl says: "Die Methode, sie, die überrelativen Wahrheiten, zu finden, setzt mit voraus die Methode der Reinhaltung des streng theoretischen Interesses, auf das philosophische Wahrheit bezogen ist. Die Erfordernisse dieser doppelten Methode sind die Bedingungen der Möglichkeit einer Philosophie – einer reinen Philosophie". (Husserl 1992b: 393).

45 Lecture IV (6 October 1967), Ingarden 1992: 124.

46 Merleau-Ponty 2003: 92. Derrida 1989: 138, 141.

47 This text, which has still not been published in French, was first released in Italian in 1975. Ricœur 1978: 175-192.

48 In question is a manuscript numbered 28 "Problem: Transfer (Tradition) and *Urstiftung*" (*Übernahme und Urstiftung. Gedanken kollidieren nicht in der Intersubjektivität, aber Zwecke kollidieren eventuell*) Husserl 1973b: 222-225. Ricœur might not have recognized this manuscript, before it was published, probably because it was seen as not-classified. Iso Kern found that it belonged to manuscripts concerning the community, that it was written in the 20s, or more precisely between 1921 and 1922.

49 Derrida 1990: 259. "La première tâche de la philosophie: la réactivation de la genèse". Despite being taken by the strength and beauty of Ricoeur's first texts concerning Husserl, Derrida translates the word *Stiftung* in a different way: "*fondement originaire*".
Torna su

Per citare questo articolo

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