

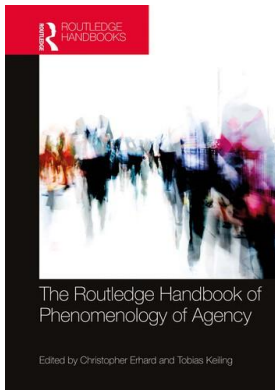
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On: 20 Mar 2023

Access details: *subscription number*

Publisher: *Routledge*

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The Routledge Handbook of Phenomenology of Agency

Christopher Erhard, Tobias Keiling

The intentionality and positionality of spontaneous acts

Publication details

<https://www.routledgehandbooks.com/doi/10.4324/9781315104249-7>

Francesca De Vecchi

Published online on: 30 Oct 2020

How to cite :- Francesca De Vecchi. 30 Oct 2020, *The intentionality and positionality of spontaneous acts from: The Routledge Handbook of Phenomenology of Agency* Routledge

Accessed on: 20 Mar 2023

<https://www.routledgehandbooks.com/doi/10.4324/9781315104249-7>

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5

THE INTENTIONALITY AND POSITIONALITY OF SPONTANEOUS ACTS

Adolf Reinach's account of agency

Francesca De Vecchi

Introduction

The aim of this chapter is to discuss Adolf Reinach's account of agency and his phenomenological approach to agency. I will show that Reinach's account of agency concerns *intentional acts*, rather than *intentional bodily actions*, and explain how it is grounded in a phenomenological account of intentional lived experiences (*Erlebnisse*) that are characterized by different levels of positionality.

More specifically, I will explain how in his work *The Apriori Foundations of the Civil Law* (Reinach 1913a) Reinach outlines an account of intentional acts as spontaneous, free acts and, in doing so, presents an attractive phenomenological account of agency. I will focus on his concept of *spontaneous acts* (*spontane Akte*) understood as intentional acts distinct from both intentional states and intentional bodily actions and show in what sense Reinach's account of spontaneous acts is a phenomenological account of free acts characterized by a sense of agency. In particular, I will discuss his claim that, unlike other intentional lived experiences, e.g. *passive* or *active* (*aktiv*) *experiences*, spontaneous acts are specifically *operative* (*tätig*) *experiences* characterized by an "inner doing" of the self, where the self appears as the "author" of acts. Accordingly, I will argue that the sense of agency captured by Reinach's account of spontaneous acts is a sense of "authorship" that ought to be sharply distinguished from a sense of ownership. Finally, I will dwell on *social acts* as a peculiar kind of spontaneous act and highlight its distinctive features. Unlike spontaneous acts, social acts are acts in which the "inner doing" of the self is grasped by another self, and, like spontaneous acts, social acts are acts that are not intentional bodily actions. Moreover, I will show that (i) the agency of social acts requires the involvement of at least two individuals and that (ii) they are position-takings of a second level, as spontaneous acts are, or even of a higher level.

Passive, active, and spontaneous intentional experiences

In the opening of the section on "social acts" of his work on the legal a priori, Reinach identifies three kinds of intentional lived experiences, namely, those characterized by (i) passivity, (ii) activity, and (iii) spontaneity. I claim that, on the basis of that distinction,

Reinach provides a phenomenological account of intentional experiences that are marked by (i) a sense of ownership, (ii) a sense of agency, and (iii) a sense of authorship, respectively.¹

Let's examine the key passage where Reinach describes this landscape of various forms of intentional experience:

Out of the infinite sphere of possible kinds of intentional experiences (*Erlebnisse*) let us select out a certain kind: the experiences which not only belong to a self but in which the self *shows itself as operative (tätig)*. We turn our attention to a thing, or we make a resolution: these are experiences which are not only opposed to the ones in which something like a sound or a pain imposes itself on us, but also to the ones where we cannot speak of a real passivity of the self, as when we are happy or sad, enthusiastic or indignant, or when we have some wish or resolution and we bear them in ourselves (*wenn wir einen Wunsch oder Vorsatz haben und in uns tragen*).² We want to call the experiences in question *spontaneous acts*; this spontaneity refers to the inner doing (*das innere Tun*) of the subject. It would be quite a mistake to want to find the distinguishing mark of these experiences in their *intentionality*. The regret which rises up in me, or the hatred which asserts itself in me, are also intentional in that both refer to some object (*irgendetwas Gegenständliches*). Spontaneous acts have *in addition* to their intentionality also their spontaneity, which lies in this, that in them the self shows itself to be the phenomenal originator (*Urheber*) of the act. Spontaneity also has to be definitely distinguished from *activity* in its many possible meanings. Thus I can call indignation active since it issues from me and forms a contrast to the sadness which creeps over me or assaults me suddenly (*die Betrübnis, die mich beschleicht oder plötzlich überfällt*).³ Or I call having of a resolution active in that I am the one who has the resolution. But we distinguish the *having* of a resolution, whether actually or inactually, from the *making* of the resolution, we distinguish what exists in us as a state (*zuständlich*) from the punctual experience, which precedes or at least can precede it; and only here in the making of a resolution do we have an example of what we mean: a doing (*Tun*) of the self and thereby a spontaneous act. We right away think of all kinds of examples of such acts: deciding, preferring, forgiving, praising, blaming, asserting, questioning, commanding, etc.

(Reinach 1913a/1989: § 3: 158; eng. trans. 2012: § 3, 18)

Reinach thus claims that spontaneous acts are a specific kind of intentional lived experience. Experiences, as intentional, are directed toward “something objective” (*irgendetwas Gegenständliches*). Thus, passive, active, and spontaneous experiences all count as forms of intentional experience. However, unlike passive and active experiences, spontaneous acts are marked by a spontaneity (*Spontaneität*) that is not reducible to any kind of “activity” (*Aktivität*).

According to Reinach, the fact that intentional experiences can be either passive, active, or spontaneous is explained by two different factors: the role played by the self in each of them (i.e. a passive, active, or operative role) and the temporality of the experiences, whether they are enduring states or punctual acts. These factors, we will see, are grounded in a further factor that Reinach does not make explicit here, but that he had focused on in his work *On the Theory of the Negative Judgment* (1911), where he first hints at the phenomenon of “spontaneous acts.” This third factor emerges on the basis of the phenomenological claim that intentional lived experiences exhibit positionality in differing degrees. I suggest that while, unlike passive experiences, both spontaneous experiences and some active experiences are position-takings, spontaneous experiences alone exceed the first degree of positionality and count as free acts.

In developing these three points, I will focus on (i) Reinach's description of each of these kinds of experience, (ii) Reinach's conception of "activity," and (iii) the positionality of intentional experiences revealed in phenomenological analysis.

Passive intentional experiences

Examples of passive intentional experiences include cases such as a sound or a pain imposing itself on one, sadness creeping over or suddenly assaulting one, and hatred fomenting within one. In these examples, passive experiences are either sensations (sound and pain) or emotions (sadness and hatred), which, as it were, occupy the self from the outside and exist independently of the self's initiative. The self is here a passive subject at the mercy of its experiences. It is not able to avoid or to manage them. Passive experiences belong to the self only in the sense that they happen in it or that it "lives in" them. The relation between the self and passive experiences, I argue, exhibits a sense of ownership, but no sense of agency or authorship.

Active intentional experiences

According to Reinach, active intentional experiences are experiences "where we cannot speak of a real passivity of the self, like when we are happy or sad, enthusiastic or indignant, or when we have some wish or resolution and we bear them in ourselves." These examples of active intentional experiences mentioned by Reinach are, respectively, emotions and desiderative or willing states. Reinach claims that both of these are active because the self is active in them. However, it seems to me that in these two cases the grounds on which Reinach argues that the self is active are quite different. Further clarification is needed beyond what Reinach is explicitly affirming here.

Emotions can be active experiences, as with emotions that involve position-taking, i.e. the self's response to some experienced state of affairs. Thus, indignation is an active emotion since it issues from the self (in contrast with sadness which creeps over the self or assaults it suddenly) in response to something it encounters.

Desiderative or willing states (e.g. having and bearing in ourselves a wish or resolution), on the other hand, are active experiences, since the self, Reinach says, is the one who has the resolution or the wish, and is the experience's bearer (*Träger*). What exactly it means to call the self active as the bearer of such states is not clear at all and needs further explication. We will return to this below in the section on *Senses of activity of the self*.

Setting that issue aside for the moment, let's say that the distinctive feature of active experiences like emotions is that they do not merely belong to the self (like passive experiences do), but rather issue from the self. They are its responses to situations in which it finds itself. This feature corresponds, further, to a sense of agency had by the self in such experience.

A further distinctive feature of active experiences is that they can be states in which the self persists, like in cases where the self is the subject of a wish or resolution.

Spontaneous intentional experiences: spontaneous acts

Reinach claims that spontaneous experiences share four essential and interconnected features that make spontaneous experiences spontaneous *acts*:

- i The "doing of the self" in which "the self shows itself as operative (*tätig*)"
- ii The "punctuality" of the experience, i.e. its instantaneous temporal character

- iii The authorship of the self insofar as it “shows itself to be the phenomenal originator (*Urheber*) of the act”
- iv The “inner doing of the subject,” which, *qua* internal, need not involve intentional bodily action (see the section below on *Intentional Acts and Intentional Bodily Actions*).

Reinach presents as examples of spontaneous acts experiences like turning our attention to a thing, making a resolution, deciding, forgiving, praising, asserting, questioning, commanding, preferring, and blaming. It is worth noting that some of these examples are spontaneous social acts (praising, blaming, commanding questioning – see the section on *Spontaneous Acts as Social Acts*).

Spontaneous acts are characterized both by the self appearing as the *author* of its inner doing and by the *instantaneity* of that doing, whereas active experiences are merely borne and temporally extended.

Spontaneous acts existentially depend on the inner doing of the self, which is both a necessary and sufficient condition for their existence – by contrast, I would say that in active experiences the self is just a necessary and not also a sufficient condition for their existence. In spontaneous acts the self is not only an agent but also an author, the creator of its experience. The crucial point Reinach makes here is that generic activity is not enough for an intentional experience to count as a spontaneous act. Rather, what is needed in addition is that the self manifests itself as the author of the act, and, in so doing, signs off the act, so to speak.

I suggest that “spontaneous act,” as intended here, involves a sense of autonomy and self-determination. The fact that I am the source and originator of the act means that what I do – making a resolution, asserting, forgiving, preferring – depends entirely on me. In other words, spontaneous acts embody the highest degree of agency. In them the self is the agent of free and voluntary acts, which are free insofar as the performance of the act depends solely upon the self (see the section on *Positionality and The Phenomenological Account of “Free Acts”*).

It nevertheless seems to me that the grounds for Reinach’s distinction between active and spontaneous acts deserve further clarification. Why does he speak of active experiences as states, on the one hand, and of spontaneous experiences as acts, on the other hand? In what sense, on Reinach’s view, do desiderative or willing states qualify as active? How does being a “bearer of the will” make the self active? To tackle these problems, I will focus on the conception of “activity of the self,” “spontaneous act,” and “positionality” hinted at in Reinach’s work *On the Theory of the Negative Judgment* (Reinach 1911).

Senses of activity of the self

In what sense is the self active in certain intentional lived experiences? Reinach does not provide a single, univocal definition for “activity.” He does, however, admit that “activity” is an ambiguous term and uses it to refer to an intentional lived experience that either:

- i “issues from the self,” as, for instance, with emotions such as indignation; or
- ii has the self as its bearer (*Träger*), as in cases of “having of a resolution and bearing it in myself” (which is not to be confused with *making* a resolution, something Reinach considers to be spontaneous and not merely active).

Concerning the second understanding of activity, it is not clear at all in what sense being the bearer of the experience makes the self active. It must be a specific sense of “bearer,” distinct

from the “standard” sense (i.e. within classical phenomenology) in which the subject of intentional experiences is always their bearer.⁴ In what further sense is the self active, then, in being the bearer of intentional lived experiences?

I suggest that Reinach uses “bearer” to refer to the self as the bearer of an intentional experience that is a state (*Zustand*), a *quid* that is *zuständlich*, as in the examples already mentioned, i.e. “having of a resolution and bearing it in myself,” “having of a wish and bearing it in myself.” In these cases, the self is the subject of an intentional experience that is a state. What is peculiar to this sort of case becomes apparent when it is contrasted with being the bearer of a different kind of experience such as a punctual, instantaneous act or a spontaneous act that is “a doing of the self.”

Reinach thus maintains that we must distinguish between states where the self is the bearer of, say, a resolution or a wish, on the one hand, and acts in which the self is the author of, say, a resolution or a wish. One may still wonder why bearing a state should be characterized as active. He does not provide an explicit answer, but nevertheless gestures in the direction of an answer. The state of *having* a resolution is a state that is *grounded* in the punctual act of *making* a resolution, which “precedes it.” Consequently, the self of the state of having a resolution is an active self, not a passive self, because the self here is resolute and intent. The self finds itself in the state of having a resolution and is the bearer of this state because it is, based on its earlier act, the author of the resolution.

Positionality of spontaneous acts: position-takings on position-takings

According to Reinach, intentional lived experiences are not to be distinguished solely on the basis of (i) the role of the self (as active, passive, or operative) and (ii) the temporality of the experience (as punctual acts or durable states), but, crucially, also on the basis of (iii) the positionality of the experience and on the layering and modality of the experiences. I claim that this third element of positionality is intertwined with the previous two criteria for distinguishing among intentional experiences and a deeper understanding of them. Whether the self is passive, active, or spontaneous in an intentional experience depends on the modality and degree of its positionality, which can also determine whether the experience is a state or an act.

In *On the Theory of Negative Judgment* (1911), two years before his account of spontaneous acts in *The A Priori Foundations of the Civil Law*, Reinach had already introduced the concept of “spontaneous act.” There he had also focused on the problem of how to distinguish between states and acts as forms of intentional lived experience and hinted at the idea that positionality involves a layering of intentional experiences. In his 1911 work, he clarifies the concept of “judgment” (*Urteil*) and differentiates two kinds of judgment, namely, judgment as conviction (*Überzeugung*), which is a state, and judgment as assertion (*Behauptung*), which is an act, even a “spontaneous act.” Let us focus on this distinction, since it nicely illustrates the crucial place of positionality in Reinach’s account of spontaneous acts:

We can [. . .] see with indubitable clarity that *conviction* or belief on the one hand, that which emerges in us in the presence of a particular object (*angesichts der Gegenstände erwächst*), always involves something that people describe sometimes as a feeling and sometimes possibly even as a situation of consciousness, but which is in any event a *state*

of consciousness (*etwas was man mitunter als Gefühl, mitunter wohl auch als Bewusstseinslage bezeichnet hat, jedenfalls eine Zuständigkeit des Bewusstseins*); but that assertion, on the other hand, which does not “emerge” within us but is rather “made” by us (*von uns “gefällt” wird*), is totally different from any feeling, from every state, and is much rather to be characterized as a *spontaneous* act.

(Reinach 1911/1989: 99; eng. trans. 1982: 320; translation modified)

Conviction and assertion, as Reinach sees things, are both kinds of judgment. What sets the two apart is that conviction is a state, one that may or may not involve a sensory component, which wells up in us when faced with objects we have apprehended, and whose emergence takes time. Hence, conviction is here identified by Reinach as a position-taking of the first degree, grounded in apprehension, and as such it qualifies as an active experience. Assertion, on the other hand, is a judgment that does not emerge or develop, but is “delivered and expressed by us” (*gefällt von uns*) spontaneously. It is, therefore, not a state at all, but rather an act, and a spontaneous one,

Moreover, Reinach carefully articulates in his description the layering of apprehension, conviction, and assertion as different kinds of experience with different corresponding degrees of positionality. It is worth noting that apprehension has a zero degree of positionality: it is the basic cognitive intentional experience, the most fundamental one, on which position-takings such as conviction and assertion can be grounded:⁵

In apprehension the state of affairs is presented to me, and on the basis of the apprehension there develops in me the conviction on, or belief in, that state of affairs. Conviction is in this case founded in apprehension; the former is the position which I take up, my receipt, so to speak, for that which apprehension offers to me.

(Reinach 1911/1989: 120; eng. trans. 1982: 344)

Conviction, as Reinach explains here, is a position-taking of the first degree, grounded in an apprehension of some state of affairs. As a position-taking with respect to that, apprehended, state of affairs, the conviction is, as it were, a receipt for the apprehension, a lasting testament to what is experienced in apprehension:

On the other hand [. . .] a state of affairs of which we remain convinced can become re-positied in an act of assertion. We have already seen that at the basis of every assertion there lies a conviction.

(Reinach 1911/1989: 125; eng. trans. 1982: 355)

Assertion is a position-taking of the second degree that is grounded in conviction. In the act of asserting, the state of affairs initially apprehended and subsequently consolidated in conviction is then posited again and confirmed. Therefore, assertion is a position-taking about a position-taking, which is what makes it a spontaneous act, i.e. an inner doing of the self that is freely performed by the self. In other words, nothing external compels the self by necessity to perform the act of assertion. The grounding relation between assertion and conviction is a relation of motivation, where the self can – but need not necessarily – make conviction into a motive for performing the assertion. It is in just this sense that the self is a spontaneous, free author of its act of asserting. This is also why I said earlier that spontaneous acts are marked by a sense of agency more narrowly conceived as a sense of authorship.

Positionality and the phenomenological account of “Free Acts”

I shall now turn to the question how Reinach’s account of spontaneous acts is in keeping with and, indeed, is part of the theory of intentionality developed by other figures within classical phenomenology like the fellow Munich scholar Alexander Pfänder, Edith Stein, who worked under Reinach, and Edmund Husserl himself, the founder of the “phenomenological movement” and under whom Reinach worked in Gottingen.⁶ The general thrust of this approach is not only that intentional experiences have different levels of positionality but also that the layering of intentional experiences of various degrees of positionality constitutes the intentional life of persons.⁷ In other words, the key to fully grasping the full theoretical import of Reinach’s account of spontaneous acts is to recognize that it is part of the broader phenomenological account of intentionality as positionality. On that view, spontaneous acts represent the highest level of position-taking, that of the free acts of persons, i.e. the level of *personhood*.⁸

Reinach’s treatment of spontaneous acts, Pfänder’s treatment of the act of willing, and Stein’s treatment of free acts all make the same point, namely, that there is a subset of intentional lived experiences comprised specifically of the self’s acts and position-takings of the second degree and beyond this.

Doubtless, in developing his account of spontaneous acts, Reinach had in mind Pfänder’s account of willing. Like spontaneous acts as understood by Reinach, Pfänder considers acts of willing to be acts originally performed by the self and not merely issued from the self. In the act of willing, he says, “the ego-center is not only the subject and origin but also the original performer of the act (*der originäre Vollzieher des Aktes*)” (Pfänder 1911/1963: 133; eng. trans. 1967: 20). Moreover, like spontaneous acts, acts of willing also existentially depend only upon the self who is their initiator. In his words: “phenomenally, the act of willing appears precisely *not* as an occurrence *caused* by a different agent but as an initial act of the ego-center itself” (Pfänder 1911/1963: 133; eng. trans. 1967: 20). Finally, just as spontaneous acts are characterized by the inner doing of the self in which the self shows up as the author of the act, acts of willing, too, are marked by “a peculiar doing in which the ego-center centrifugally, from inside itself, performs a mental stroke (*geistiges Schlag*)” (Pfänder 1911/1963: 135; eng. trans. 1967: 22; see also Stein 1922/1970: 53).

Turning now to Stein, she refers explicitly to both Pfänder and Reinach in her work on the motivational life of persons, in which she takes the highest level of positionality to be that of “free acts” (Stein 1922/1970: 46). Stein characterizes free acts as “acts in which the self not only experiences, but emerges as the master of its experience (*Akte in denen das Ich nicht nur erlebt, sondern als Herr seines Erlebens auftritt*).” Regarding free acts, she writes that “I must bring them forth from within myself, as if I were mentally hitting out (*Ich muss sie aus mir heraus erzeugen, gleichsam geistig einen Streich führen*)” (Stein 1922/1970: 46; my translation). Only those acts that “the self carries out from within itself (*die das Ich aus sich heraus vollzieht*)” are free.

To better clarify the nature of spontaneous, free acts it will help to follow Stein’s analysis and then compare it to Reinach’s. Like Reinach, Stein also contrasts spontaneous, free acts, on the one hand, and lived experiences that are not spontaneous, on the other hand. For instance, sensations and emotions are not spontaneous acts since one cannot help but undergo them. One cannot avoid feeling a pain when knocking one’s leg against a table or avoid feeling sad when receiving bad news. Sensations and certain kinds of emotions are precisely “passive experiences,” as Reinach calls them, which stand out as such only by the sense of ownership accompanying them.⁹ However, the crucial point that Stein makes is that one can take a position concerning these experiences, one can manage them. That is, one can accept

or endorse (*annehmen*) them or withhold attention from them, even repressing them (*ablehnen*), if one likes (see Stein 1922/1970: III, § 3: 42–46). This constitutes a first level of position-taking corresponding to what Reinach’s calls active experiences, I suggest. Further, one can take a position with respect to what one has endorsed or ignored in a prior position-taking and can turn it into a ground or motive for further acts. This is the level of spontaneous, free acts. They are second-order (or higher) position-takings. They make up the sphere of experience requiring a self and depending on nothing beyond it. Again, it must be observed that the motives on which spontaneous, free acts are grounded do not force the self to perform them; as Stein points out, “the self can also abstain from them (*das Ich kann die Motive haben [. . .] und kann die Akte ebensogut unterlassen*)” (Stein 1922/1970: 48–49; my translation). That is why the “found-ing” (*Fundierung*) relation of spontaneous, free acts as resting on lower-order position-takings is a relation of motivation and neither a necessitating nor a causal relation.¹⁰

In the light of this layering of intentional experiences and position-takings through which the life of persons as subjects of spontaneous-free acts becomes intelligible, it is now possible to more adequately understand the sense of agency as authorship distinctive of specifically spontaneous acts, as I have endeavored to show from the outset. Position-takings of the first level are, of course, characterized by a sense of agency and not merely by a sense of ownership, which is the mark of lower-order intentional experiences like sensations and certain emotions. However, only position-takings of the second level (or higher), that is, only spontaneous, free acts exhibit the strongest sense of agency. Indeed, the latter involves at the same time a sense of authorship. The existence of the act depends upon the self freely and willingly playing the role of the act’s author.¹¹

Intentional acts and intentional bodily actions

What I have examined so far is Reinach’s account of spontaneous acts as free acts of persons, acts representing the highest level of positionality and marked by a sense of agency as authorship.

I would like to dwell now on the fact that, according to Reinach, spontaneous acts are not bodily actions. He speaks of spontaneous acts simply as intentional lived experiences involving an internal doing of the self, without mentioning any accompanying bodily action.

I suggest that Reinach’s distinction between spontaneous acts and intentional bodily action is consistent with the phenomenological account of intentional lived experiences provided by Husserl (1901) in his *Fifth Logical Investigation* (§§10, 12–13) according to which intentional lived experiences (*Erlebnisse*) are not actions in the sense of intentional bodily actions. Husserl explains that his concept of “act” excludes the common and original meaning of “act” (*actus*) as a form of “activity” (*Betätigung*) performed in the world.¹²

However, this fundamental connection does not exclude an important difference between Husserl and Reinach regarding the way of intending “act” and “intentionality” as “positionality.”

In contrast to Husserl, Reinach holds that *acts* are only those intentional experiences marked by a spontaneous doing of the self and by position-takings of a second degree, at least. As we have seen, Reinach sharply distinguishes spontaneous, free acts from any other kind of intentional lived experience: from active lived experiences that are position-taking of first degree, on the one hand, and from passive intentional live experiences as well as from basic cognitive lived experiences (like apprehension or perception) that are both position-takings of zero degree, i.e. no position-takings, on the other hand.

For Husserl, on the contrary, any intentional lived experience is per se an act. Husserl uses “act” interchangeably with “intentional lived experience” because in any such experience the self is directed toward and faced with something: thus, according to Husserl, any intentional lived experience – even basic cognitive experiences like perceptions – involves position-taking since the self *responds* in different ways, i.e. by occupying different levels of positionality, to the experienced object. The response may be an intentional lived experience that is a free act of the person like a decision and that is marked by the highest degree of positionality: it is a position-taking on position-takings; but the response may also be an intentional lived experience that is characterized by the lowest degree of positionality like a perception that does not presuppose other position-takings; nevertheless, Husserl’s point is that, even in such intentional lived experiences that have the lowest degree of positionality, the intentional relation between the self and the experienced object is still characterized by positionality. For instance, in the case of perception the self still takes a position in so far as it takes the experienced object as actually existing – and not as a non-existent object as in hallucination. This is why Husserl claims that “all life is position-taking” (*Alles Leben ist Stellungnehmen*) (Husserl 1911/1984: 56; eng. trans. 2002: 290).¹³

It is worth noticing that this way of equating “intentional lived experience,” “act,” and “positionality” implies that when Husserl and other phenomenologists like Stein refer to second-degree (or higher) position-takings, they must explain that they are using the term “act” *stricto sensu*, and not merely as a synonym for “intentional lived experience.” Stein, for instance, calls them “free acts” (see Stein 1922/1970: 46).

Anyway, apart from that divergence, it seems to me that the crucial point is that both Reinach and Husserl agree on the view that there is a specific kind of intentional lived experience consisting of (at least) second-order position-takings, i.e. free acts of persons.

Now, what about the relation between spontaneous, free acts (i.e. acts *stricto sensu*, in the sense just explained), on the one hand, and intentional bodily actions, on the other hand? Actions are goal-directed intentional bodily movements. Such bodily movements are intended with the aim of satisfying a goal specified in a spontaneous, free act. In other words, what are commonly called “intentional actions” can arise from intentional acts and fulfill their content, as long as both have the same content. For instance, the action of doing X fulfills various intentional acts like deciding to X, preferring to X, or being commanded to X. Intentional actions involving bodily movement are characterized by a sense of agency absent in mere bodily behavior, which are nevertheless accompanied by a sense of ownership.¹⁴

Of course, the relation between intentional acts and intentional bodily actions is a motivational one that is neither necessitating nor causal. As a relation of motivation, it is a moment of the fundamental phenomenological idea of intentionality as positionality.

Spontaneous acts as social acts

As I have just shown, in Reinach’s account of spontaneous acts, the doing of the self characteristic of spontaneous acts is an internal doing, and spontaneous acts are not bodily actions. Nevertheless, not all spontaneous acts are solely *internal acts*. Reinach introduces a crucial distinction among spontaneous acts and affirms that spontaneous acts include a subset of acts that are not internal, but external. Such acts are external in the sense that they have to be turned toward, communicated to, and grasped by another person: they are *social acts*. Therefore, spontaneous acts can also be social acts. Indeed, in Reinach’s work spontaneous social acts play a more significant role than simple spontaneous acts. He focuses on spontaneous acts

precisely in order to highlight the kind of intentional lived experience to which social acts belong. In the following passage he describes the nature of such social acts:

In looking more closely at these cases [of spontaneous acts (deciding, preferring, forgiving, praising, blaming, asserting, questioning, commanding, etc.)], we right away notice an essential difference, and this is the difference which is important for us here.

The act of deciding is an internal act. It can be performed without being announced (*verlautbar*) or needing to be announced. [. . .] It can unfold entirely within, it can rest in itself and not receive an expression in any sense. One sees right away that it is otherwise with certain other spontaneous acts. Commanding or requesting, for instance, clearly cannot be performed entirely within.

[. . .] Commanding [. . .] announces itself in the act of turning to the other (*sich wenden an*), it *penetrates the other (dringt in den anderen ein)*, and has by its very nature a tendency to be heard (*vernommen*) by the other. [. . .] The command is according to its essence *in need of being heard (vernehmungsbedürftig)*. [. . .]

We designate the spontaneous acts which are in need of being heard, *social acts*. [. . .] Our concept of social acts centers only on the need of being grasped.

(Reinach 1913a/1989: § 3; eng. trans. 2012: 18–19).

Acts such as praising, blaming, questioning, commanding, as well as promising, informing, promulgating a law (acts not mentioned by Reinach in this passage) are spontaneous *social acts*, and not merely spontaneous acts. In spontaneous social acts the doing of the self is not merely internal. It is turned toward another self, the addressee of the act, and needs to be expressed in order to be *grasped* by the addressee. In describing the role of the addressee, Reinach uses the German expressions *vernehmen* and *Vernehmungsbedürftigkeit*. The idea is that the addressee must perceive the spontaneous doing of the agent as a necessary condition for the performance of a social act. We can also translate *vernehmen* by “taken up” and *Vernehmungsbedürftigkeit* by the “necessity of being taken up.” Social acts must be taken up by their addressee just as “speech acts” do. Indeed, Reinach’s treatment of social acts and J. L. Austin’s treatment of speech acts about fifty years later target the same phenomena.¹⁵

It should also be observed that, like spontaneous acts, spontaneous social acts need not involve intentional bodily actions (for instance, think of social acts such as praying, asking, informing, promising: they do not need any bodily action at all), but, unlike spontaneous acts, they are acts that emerge from an agent’s mind in order to reach another individual, the addressee of the act, by whom the act is to be grasped (see Reinach 1913a/1989: § 3; eng. trans. 2012: 20).¹⁶

For considerations of space, I cannot dwell here on Reinach’s account of the essential features of social acts and their role in the theory of the a priori foundations of law. I nevertheless want to make just two points about the nature of social acts as spontaneous.¹⁷ Both concern the agency of spontaneous social acts. One regards how agency is “modified” in social acts and the other concerns social acts as (at least) second-order position-takings.

First, in spontaneous social acts, the inner doing of the self is turned toward another person, the addressee of the act, who must perceive it for the act to be performed. Indeed, social acts are “heterotropic.”¹⁸ The addressee of the social act is a counterpart to the act’s author and must validate, as it were, the author’s spontaneous doing. There is no such requirement for simple (i.e. non-social) spontaneous acts. That is why social acts are not internal acts as spontaneous acts are. They are, rather, acts whose completion involves an external moment,

i.e. the intentionality of the addressee. Social acts existentially depend on the addressee's uptake. Importantly, that uptake, I suggest, need not itself be a spontaneous act. It need only be an intentional lived experience in which the addressee apprehends the act. On Reinach's account, this uptake is the sort of experience we referred to earlier as a basic cognitive experience that has a zero degree of positionality. In it the addressee apprehends the author's act. The addressee can then take a position on that act, endorsing or rejecting it, and can, moreover, take yet another position concerning it, for instance, deciding to respond to a question, if the social act was one of posing a question, to obey a command, if it was one of issuing a commanding.¹⁹ In other words, the addressee's uptake is not per se a position-taking, because it might be merely an act of apprehension (see the section above *Positionality of Spontaneous Acts*).

Second, social acts are essentially (at least) second-order position-takings. Hence, they exhibit the highest level of positionality that spontaneous acts can occupy and enrich our understanding of that level. As Reinach emphasizes, social acts are necessarily grounded in other intentional experiences, ones that have the same content as the corresponding social acts yet are not themselves social acts:

We now have to take note of the remarkable fact that all social acts *presuppose* [. . .] internal experiences. As a matter of apriori necessity (*wesensgesetzlich*) every social act presupposes as its foundation some internally complete experience whose intentional object coincides with the intentional object of the social act or is at least somehow related to it. *Informing* presupposes being convinced (*Überzeugung*) about what I inform someone of. [. . .]. *Commanding* presupposes as its foundation not only the wish but the *will* that the one who is commanded carry out my command; [. . .] Like all social acts, *promising* presupposes an inner experience which has the content of the promise as its intentional object. As with commanding, this inner experience is that of intending (*Wille*) that something occurs, not of course through the addressee but through the promisor himself.

(Reinach 1913a/1989: 162, 164–165; eng. trans. 2012: 21–22, 25–26)

It is worth noting that, in Reinach's analysis, social acts like commanding and promising are third-order, not second-order, position-takings. Both commanding and promising are grounded in the will that something should occur through the addressee's (in commanding) or agent's (in promising) subsequent action. The will that something should occur is already a second-order position-taking with respect to a first-order position-taking such as a belief about some previously apprehended state of affairs.

Finally, it is also crucial to highlight that, as Reinach explicitly affirms in speaking of "a matter of a priori necessity" or more precisely "a matter of essential lawfulness" (a more literal translation of his expression, *wesensgesetzlich*), the relation between intentional experiences of different levels of positionality – that is, the layering of intentional experiences – is not a contingent relation, but an essential one. It is a distinctively motivational relation, one that must be carefully distinguished from contingent empirical relations. Reinach's entire approach to understanding social acts and the social world is marked by the distinctively phenomenological claim that there is a "material a priori," understood as essential constraints that define any kind of entity as such.²⁰ The specific contribution of Reinach's work is the extension of that idea to social reality and the discovery of such material a priori in the social world.²¹

Related topics

Chapters 2 (on Pfänder & Husserl), 3 (on Pfänder), 9 (on Stein), 24 (De Monticelli).

Notes

- 1 For the phenomenological distinction between the “sense of ownership” and “sense of agency,” see Gallagher (2000) and Gallagher and Zahavi (2008: ch. 8).
- 2 The English translation does not include the German “und in uns tragen,” so I added “we bear them in ourselves.”
- 3 The English translation does not correspond to the German “die Betrübnis, die mich beschleicht oder plötzlich überfällt.”
- 4 For the phenomenological account of the intentionality of lived experiences, see Husserl’s (1901/1984) *Fifth Logical Investigation*.
- 5 On Reinach’s claim that apprehending is not a position-taking, see Mulligan (2014).
- 6 On the relationships between Reinach, Pfänder, Stein, and Husserl, and, more generally, the reconstruction of the “history” of “the phenomenological movement,” see Spiegelberg (1960). For discussion of the relationship between Reinach and Stein in particular, see Schuhmann (1991).
- 7 See Husserl (1912–28/1952), Pfänder (1911/1963), and Stein (1922/1970).
- 8 For the sake of brevity, I cannot deal here with the issue of persons as subjects of acts and of “personhood” as the highest layer of persons, founded in the lower layer of “subjectivity.” Husserl speaks in this regard of “The spiritual Ego and its underlying basis” (“Das geistige Ich und sein Untergrund”) and characterizes the person in terms of “Geist” thus: “Spirit is [...] the fullness of the person, the Ego as human, the ‘I take a position’, the I think, I value, I act, I complete works” (“Geist ist [...] die volle Persönlichkeit, Ich-Mensch, der ich Stellung nehme, der ich denke, wertere, handle, Werke vollbringe” (Husserl 1912–28/1952, § 61: 280). See De Monticelli (2015) and (2020, in the present volume) for further discussion.
- 9 It is needed to remark that emotions may also be active intentional experiences, as for instance the indignation mentioned by Reinach himself as example of active experiences (see the section *Active Intentional Experiences*)
- 10 For more on the phenomenological account of “motivation,” see Stein (1922/1970: § 4), and Husserl (1912–28/1952: §§ 54–61).
- 11 As Reinach affirms in the section on ethics in his *Introduction to Philosophy (Einleitung in die Philosophie)*, “spontaneity” also expresses the free will of the act’s subject. Spontaneous acts are free and voluntary (*willentlich*) (see Reinach 1913b/1989: 508–510). In this text Reinach also seems to suggest that his use of the terms “spontaneous” (*spontan*) and “spontaneity” for intentional free acts is consistent with Kant’s. In the passages discussing Kant’s ethics, Reinach speaks of “spontaneity of intellect,” in contrast to the passivity of sensibility (Reinach 1913b/1989: 497–514).
- 12 Husserl affirms: “In talking of ‘acts’, on the other hand, we must steer clear of the word’s original meaning: all thought of activity must be rigidly excluded” (“Was andererseits die Rede von Akten anbelangt, so darf man hier and den ursprünglichen Wortsinn von *actus* natürlich nicht mehr denken, der Gedanke der Betätigung muss schlechterdings ausgeschlossen bleiben”) (Husserl 1901/1984: *Fifth Investigation*, § 13).
- 13 For this understanding of the positionality of intentionality in Husserl’s phenomenology, see De Monticelli (2011, 2015, and 2020, in the present volume).
- 14 Concerning intentional bodily action, see Gallagher and Zahavi (2008: ch. 8). It is worth noting that many analytic philosophers tend to call mental acts “mental states,” and to identify “acts” with “actions,” as for instance Searle and Bratman do. See Searle (2001, 2010) and Bratman (1987).
- 15 On the relation between “social acts” and “speech acts,” see Mulligan (1987, 2016) and Smith (1982, 1990).
- 16 Reinach explicitly distinguishes between social acts and “external actions” (*äußere Handlungen*) (Reinach 1913a /1989: 165).
- 17 Regarding Reinach’s account of social acts, see Mulligan (1987) and Smith (1982, 1990).
- 18 “Heterotropic” is a neologism composed of two ancient Greek words: the more familiar *héteros* which means *other/another* and the less familiar *trépein* which means *turning toward*. “Heterotropic act” thus refers to an intentional act directed toward other persons, which requires the involvement

- of at least two persons to occur. On social acts as heterotropic acts, see De Vecchi (2014) and De Vecchi and Passerini (2012).
- 19 On the zero degree of positionality of the addressee's uptake in Reinach, see De Vecchi (2020).
- 20 For the sake of brevity, I cannot develop the crucial phenomenological point concerning the "material a priori," and I just limit myself to refer to the most fundamental source, namely Husserl's *Third Logical Investigation* (1901).
- 21 Reinach's *A Priori Foundations of Civil Law* is certainly a work of social ontology. See Mulligan (1987, 2016), Benoist (2005), De Vecchi (2012, 2013, 2014, 2016a, 2016b), and two conferences devoted to Reinach in 2017: "The Philosophy of Adolf Reinach," 30 November–1 December 2017, Universities of Lugano and Milan; "Reinach centennial conference," 14–16 December 2017, University of Munich.

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Further reading

The special issue of the journal *Philosophie* devoted to “Adolf Reinach” (ed. D. Pradelle 2016, n. 128) contains important contributions to Reinach’s account of intentionality and proxy-social acts. A. Reinach (1913–14/1989), “Die Überlegung: ihre ethische und rechtliche Bedeutung”/“Reflection: Its Ethical and Legal Significance,” in A. Reinach, *Three Texts in Ethics – A German-English Parallel Edition*, transl. J. Smith and M. Lebeck, intro J. Smith, foreword by A. Salice (Munich: Philosophia, 2017). This essay is a fundamental source for Reinach’s account of position-takings. E. Stein, *Eine Untersuchung über den Staat* (*Edith Stein Gesamtausgabe*, vol. VII), ed. I. Riedel-Spangenberg (Freiburg: Herder, 1925/2006); English transl. M. Sawicki, *An Investigation Concerning the State* (Washington, DC: ICS Publications, 2006). This treatise represents an impressive development of Reinach’s account of spontaneous social acts from the perspective of an account of law-making acts as proxy and collective social acts.