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Adolf Reinach on States of Affairs (*Sachverhalt*) and Negative Judgments

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The work of Reinach and early phenomenology

"Reinach's importance for the development of early phenomenology is particularly remarkable considering the brief life span of 34 years granted him for the development of his ideas and his influence. It was his death in action in 1917 rather than Husserl's going to Freiburg which cut short not only his own promise but that of the Gottingen phenomenological Circle. It is therefore not surprising that Reinach never found the time to formulate a comprehensive plan of a philosophy in which the place of phenomenology was clearly defined." One can only extrapolate such a plan from his Essays and fragments - for he never published a book. His conception would have incorporated a formal and material ontology on realistic lines." (p. 192)

(...)

His examples of the new method, which ranged all the way from mathematics to psychological science, displayed the following major features: I. The phenomenological method is to teach us how to see things which we have a tendency to overlook in our everyday practical attitude, and to see them in their unique whatness or essence without the customary attempts to reduce them to the smallest possible number, an attempt which can lead only to impoverishment and falsification of the phenomena. The prime objective of phenomenology is thus to lead us toward the phenomena and to clarify our conceptions of them.

II. Phenomenology does not restrict itself to making inventories of facts. It wants to explore their essences while disregarding their existence. This actually involves two attitudes, actually not yet sharply distinguished by Reinach: (a) disinterest in reality in the sense of independence of the observer, in contrast to the approach of a natural science, like physics; in Reinach's version this change in attitude did not require the adoption of a special method after the manner of Husserl's phenomenological reduction; (b) interest in pure models, as in geometry, which considers merely ideal types, even where no example can be produced in actual experience; this involves a theoretical idealization, though not Husserl's ideating abstraction or 'eidetic reduction,' which Reinach does not mention in this context.

III. Besides the intuiting of the phenomena and their essences, Reinach stressed one additional step: the study of the essential connections among these phenomena (*Wesenszusammenhänge*) and their laws (*Wesensgesetze*). These relations among the phenomena are determined by their essential nature and are expressed, for instance, in such phrases as 'it lies in the nature of movement to have a substratum,' 'it follows from its very nature.' According to Reinach, such essential connections occur not only among the formal structures of logic and general ontology, but also in the structures of concrete 'material' phenomena, for instance among colors in their similarities. They are of two basic types: essential necessities and essential possibilities. To be sure, these are usually so obvious that

no one pays attention to them. But it is precisely these neglected 'trivialities' to which phenomenology has to give their due.

In this connection Reinach developed his theory of the phenomenological a priori, which was perhaps the most characteristic feature in his philosophizing. It differed radically from earlier conceptions of the a priori. To begin with, Reinach's a priori was not a property of propositions or acts of judging or knowing, but of states of affairs (Sachverhalte) judged or recognized. It is these ontological states of affairs or, more properly speaking, the connections between the elements of these states of affairs (the object judged about and its property judged), which by virtue of these connections are the carriers of the a priori property. 35 The a priori is thus primarily an ontological, not an epistemological category.

But what does it mean that a state of affairs is a priori? Obviously not that we have an innate idea about it. In fact, Reinach agreed with the Kantian conception of the a priori to the extent of interpreting it as knowledge not grounded in experience, but not as knowledge without experience either. He also concurred with Kant that necessity and universality are important aspects of the a priori: A priori states of affairs are universal for all possible examples, and they are necessary in the sense that the a priori property contained in the Sachverhalt belongs to its carrier by an essential necessity. However, any implication that this necessity is really only a necessity of thought to be derived from the organization of our understanding must be avoided. This, to Reinach, would have meant sheer psychologism. His necessity was an ontological necessity grounded in the things, not an epistemological one based on our reason. Universality and necessity were for Reinach only secondary characteristics of the a priori; they followed from the more basic fact that there are essential connections (Wesenszusammenhänge) which are immediately intuitable and which can be given with complete adequacy. Thus 'a priori' means at bottom nothing but the fact that a certain property is necessarily entailed by the essential structure of an object and can hence be understood as such." (pp. 193-194)

"From: Herbert Spiegelberg, *The Phenomenological Movement. A historical introduction*, The Hague: Martinus Nijhoff 1963 (third edition).

"Only one of Reinach's treatises is historical in character: "Kant's Understanding of the Humean Problem" (*Zeitschrift für Philosophie und philosophische Kritik* 141; 1908). It deserves the most careful attention. Reinach's insights into "relations of ideas" and his discovery that Kant wrongly interpreted these as analytical judgments, were, as I studied them at the time, of decisive importance for me on the way to pure phenomenology. Reinach for his part, as an accomplished phenomenologist turning to the study of Kant, detected Kant's misunderstanding and treated of it in a rich and instructive article.

The first of Reinach's systematic-phenomenological Essays, "Towards the Philosophy of the Negative Judgment" (in the *Festschrift* for his earlier teacher in philosophy, "*Munchener philosophische Abhandlungen. Th. Lipps zu seinem 60. Geburtstag gewidmet von früheren Schülern*," Leipzig, 1911) deals in an extraordinarily penetrating way with difficult questions belonging to the general theory of the judgment. It is original in attempting to develop a phenomenological difference between "conviction" and "assertion" and in this way to enrich the theory of the negative judgment by making various phenomenological distinctions. Very important but apparently neglected is Reinach's study, "Deliberation in Its Ethical and Legal Significance" (*Zeitschrift für Philosophie und philosophische Kritik* 148 and 149; 1912, 13). The pure phenomenological analysis of the essence of theoretical ("intellectual") and practical ("voluntary") deliberation leads Reinach to fine and significant distinctions in the area of intellectual and practical-emotional acts and states of mind; he then applies his results to questions of ethics and penal law. The most significant and the longest work of Reinach's is also a mature and thoroughly finished work, "On the Apriori Foundations of Civil Law," which appeared in the first volume (1913) of my *Jahrbuch für Philosophie und phänomenologische Forschung*, of which Reinach was a co-editor. This work attempts something completely new with respect to all present and past philosophies of law: on the basis of pure phenomenology it attempts to develop the idea, long held in suspicion, of an apriori theory of right. With inimitable analytic power Reinach brings to light a whole array of "apriori" truths which underlies any real or possible legal code; and these truths, as he shows, are apriori in exactly the sense of the basic axioms of arithmetic and logic, that is, they are truths which are grasped in intellectual insight as being valid without any possible exception, and they are prior to all experience. These apriori truths in the sphere of right, such as that a claim is

dissolved by its being fulfilled, or that property, through the act of transfer, passes from one person to another, have nothing to do with the "enactments" (arbitrary determinations that something ought to be) of the positive law. For all positive enactments presuppose concepts such as claim, obligation, property, transfer, etc.; these concepts are thus apriori with respect to positive law. Reinach's apriori principles are simply expressions of absolutely valid truths which are grounded in the essential meaning of these concepts. What is utterly original in this essay of Reinach's, which is in every respect masterful, is the idea that we have to distinguish this apriori, which belongs to the proper nature of any legal order, from the other apriori which is related to positive law as something normative and as a principle of evaluation: for all law can and must be subjected to the idea of "right law"-- "right" from the point of view of morality or of some objective purpose. The development of this idea would lead to a completely different apriori discipline, which however does not, just as Reinach's apriori theory of right does not, go in the direction of realizing the fundamentally mistaken idea of a "natural law." For this apriori discipline (of "right law") can only bring out formal norms of right, and from these one can no more extract a positive law than one can get definite truths in the natural sciences out of formal logic. No one who is interested in a strictly scientific philosophy of right, in a definitive clarification of the basic concepts which are constitutive for the idea of any possible positive law (a clarification which, it is clear, can be achieved only by phenomenologically penetrating into the pure essence of our consciousness of right) can afford to overlook this work of Reinach's which breaks so much new ground. It is for me beyond any doubt that it will secure for its author a permanent place in the history of the philosophy of right."

From: Edmund Husserl, "Obituary notice", *Kant-Studien*, 13 1919, pp. 147-149, translated by John F. Crosby, *Aletheia. An International Journal of Philosophy*, 3, 1983, pp. XI-XIII.

"It is characteristic for Reinach that in each of these studies, even if they treat of rather particular problems, Reinach achieves and formulates, often for the first time, general foundational insights. And these insights are at the same time in most instances so precisely formulated that nothing more is needed for us to build on them. Thus the short study entitled, "The Most General Principles of the Inference according to Kant," which is on one level only a critical study of Kant, clarifies one of the basic problems of logic, the problem of the so-called general object, by distinguishing between essence and the indeterminate individual object which participates in the essence. In the same way his paper, "Kant's Understanding of Hume's Problem," in its aim apparently so very specialized, clarifies the nature of authentic causality by distinguishing between modal and material necessity. And in the same way his paper, "Towards the Theory of the Negative Judgment," clarifies the nature of presentation (*Vorstellung*) and intuition (*Anschauung*), and makes the foundational distinction within the sphere of theoretical acts between acts in which a position or stance is taken, and acts in which something is grasped or apprehended. This distinction, made in connection with the distinction between presentation and judgment (both in the sense of conviction as well as of assertion), has a fundamental importance which not only far surpasses the sphere of the negative judgment, the subject of this paper, but also surpasses the sphere of the judgment in general and is fundamental for every ontology of acts of the person. This characteristic of Reinach's mind comes out most clearly in his most perfect work, "The Apriori Foundations of the Civil Law." His theme here is one belonging to the philosophy of law, but what he deals with is not just anyone but rather the problem of legal philosophy. The so ambiguous concept of the apriori finds here its definite and classical formulation. The idea of the social acts, with their characteristic need of being heard by the addressee, or of the constitutive importance of certain acts through the performance of which are constituted real, objectively valid relations, withdrawn from our arbitrariness, all this and other ideas as well have an importance which goes far beyond the scope of Reinach's legal theme. We have here insights which are fundamental for the whole ontology of the sphere of personal acts as well as of the sphere of those objectively valid structures which are constituted by the performance of certain acts."

From: Dietrich von Hillebrand, "Written as an Introduction to Reinach' *Gesammelte Schriften*" (1921), but not published. Translated by John F. Crosby, *Aletheia. An International Journal of Philosophy*, 3, 1983, pp. XX-XXI.