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Jurisprudence

An International Journal of Legal and Political Thought

ISSN: (Print) (Online) Journal homepage: https://www.tandfonline.com/loi/rjpn20

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To cite this article: Corrado Roversi, Michele Ubertone, Caterina Villani, Stefania d'Ascenzo & Luisa Lugli (2022): Alice in wonderland: experimental jurisprudence on the internal point of view, Jurisprudence, DOI: 10.1080/20403313.2022.2109884

To link to this article: https://doi.org/10.1080/20403313.2022.2109884

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Published online: 22 Dec 2022.

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JURISPRUDENCE
https://doi.org/10.1080/20403313.2022.2109884

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Alice in wonderland: experimental jurisprudence on the internal point of view

Corrado Roversi[a], Michele Ubertone[a], Caterina Villani[b], Stefania d'Ascenzo[b] and Luisa Lugli[b]

[a]Department of Legal Studies, Alma Mater Research Institute for Human-Centered Artificial Intelligence, University of Bologna, Bologna, Italy; [b]Department of Philosophy and Communication, Alma Mater Research Institute for Human-Centered Artificial Intelligence, University of Bologna, Bologna, Italy

ABSTRACT
Humans have this extraordinary cognitive ability: They imagine inexistent objects, they treat them as if they were real, and by doing so they make them real. They thus give rise to a shared institutional reality that enables them to cooperate in ways that would be impossible otherwise. In this paper, we would like to revisit the account that HLA Hart gives of the practice of collective acceptance that makes a legal system possible. We try to provide an explanation of what Hart calls the 'internal point of view', on the basis of experiments on institutional concepts, drawing on the paradigm known as 'embodied cognition'. Experts and non-experts in law rated the role of several cognitive dimensions for a list of words referring to two kinds of abstract concepts (institutional and theoretical/scientific) and two kinds of concrete ones (food and artifact). Institutional concepts were distinguished into pure-institutional (e.g., 'contract', 'state', 'property') and meta-institutional (e.g., 'norm', 'duty', 'justice'). The results provide an empirical account of how our way of thinking about institutions changes as we acquire expertise in the legal field, thus shading light on the cognitive underpinnings of the 'internal point of view'.

KEYWORDS
Internal point of view; H.L.A Hart; Legal Concepts; Experimental Jurisprudence

1. Introduction

In Lewis Carroll's *Through the Looking Glass,* Alice has this interesting conversation with the White Queen:

> 'I can't believe that!' said Alice.
>
> 'Can't you?' the Queen said in a pitying tone. 'Try again: draw a long breath, and shut your eyes'.
>
> Alice laughed. 'There's no use trying', she said: 'one can't believe impossible things'.
>
> 'I daresay you haven't had much practice', said the Queen. 'When I was your age, I always did it for half-an-hour a day. Why, sometimes I've believed as many as six impossible things before breakfast'.

CONTACT Corrado Roversi corrado.roversi@unibo.it

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Pace the White Queen, it is impossible to believe impossible things even if you try hard. Not only that: it also seems impossible to believe *false* things, if you *know* that they are false. If you know that anthropomorphic eggs or talking rabbits do not exist, you will have a hard time forcing yourself into believing in their existence. Yet there are cases in which we can not only will ourselves into believing unreal things, but we can go as far as making previously unreal things possible by believing them to be real. Humans have this extraordinary cognitive ability: they imagine inexistent objects, they treat them *as if* they were real, and, by doing so, they *make* them real. With their imaginative power, they give rise to a shared virtual reality that enables them to cooperate in ways that would otherwise be impossible. Nothing like this, to our knowledge, exists in any other species. Money, property, corporations, contracts, rights, duties, and obligations have this very peculiar mode of existence. They do not exist in the same sense in which a mountain, a banana, the atmosphere, or even a hammer, a chair, or a wall exist. They are figments of our imagination. However, they are not unreal, in the same sense in which Santa Claus or the Bogeyman are unreal. They do affect our world in crucial ways. They have real causal effects on our real lives. It is just that these effects are real only on condition that we collectively act *as if* they were real. It is much like a self-fulfilling prophecy: we each imagine these objects to exist, and by doing so we contribute to constituting them as existent.

This very remarkable feature of human cognition has been widely discussed in the social sciences in general and in legal theory in particular. In this paper, we seek to contribute to our understanding of this topic by examining the account that HLA Hart gives of the practice of collective acceptance that makes a legal system possible: what he calls taking the 'internal point of view' on law. This, in Hart's theory, is a practice of rule-abidance and rule-protection that individuals follow both in their own behaviour and in reacting to other people's behaviour. Hart argues that, without this social phenomenon, no legal system could exist, not even a very simple and primitive one. Complex legal systems entail a new institutional reality that makes this practice necessary and that, as we will see, also requires further elements, and in particular the introduction of what Hart calls 'secondary rules'.

If we read philosophers other than Hart who have dealt with this topic, we may get the idea that institutional reality comes into existence in virtue of a set of mental representations that are identical in each member of the relevant community. For example, we may convince ourselves that property exists in our institutional reality in virtue of the fact that we all have a *common* shared mental representation of what it is for something to count as property. A first amendment that Hart makes to this standard picture is the idea that a legal system typically requires a division of cognitive labour. Every developed legal system has some officials who can use legal notions in a way in which common people cannot, and their role is fundamental, in the sense that without them the legal system could not even exist:

> [I]n a modern state it would be absurd to think of the mass of the population, however law-abiding, as having any clear realization of the rules specifying the qualifications of a continually changing body of persons entitled to legislate. […] We would only require such an understanding of the officials or experts of the system […].[1]

[1]HLA Hart, *The Concept of Law* (Oxford University Press 2015) 60.

A second amendment suggested by Hart's theory is that mastering an institutional concept is not necessarily a matter of entertaining a mental representation: it may also be a matter of having a special disposition to follow certain standards of conduct.

> Most of the obscurities and distortions surrounding legal and political concepts arise from the fact that these essentially involve reference to what we have called the internal point of view: the view of those who do not merely record and predict behaviour conforming to rules, but *use* the rules as standards for the appraisal of their own and others' behaviour.[2]

To have a legal system, it is insufficient for the community to be able to have a mental representation of such things as obligations, rights, and the state: it is also necessary for at least part of the community to *act* on such representations.

Now, if Hart is right in these two respects, we should expect that when officials and legal experts and practitioners use institutional words, they conceptualise these words in ways that differ appreciably from the conceptualising that laypeople do in using the same words. Those who have received the training necessary to become officials should find it easier to apply the concepts and to identify their referent and, given the foundational role of their behaviour, should show a deeper commitment to the conceptual framework. Hence, the experience of thinking the concept should probably also be associated with different kinds of feelings or emotional reactions in the two groups. Ideally, we would expect the expert group to report a kind of response to each institutional concept that could somehow be associated with 'acceptance' of the institution.

Hart's intuitions resonate with what cognitive science has been teaching us about concepts generally in recent years. Embodied cognition psychology is gathering more and more evidence to the effect that the mastery of concrete concepts consists in behavioural dispositions rooted in our perceptual and bodily motor systems – having the concept of a cup is equivalent to activating behavioural patterns regarding a cup – and that abstract concepts are derivative on concrete ones. Hence, conceptual patterns are not only representational in nature: they are inherently practical; they are indeed connected in the first place with a kind behaviour, just as, in Hart's view, having an internal point of view is in the first place a 'social practice'. This is why we thought it was worthwhile to apply the paradigm of embodied cognitive science to the concepts involved in the internal point of view: legal and institutional concepts, which according to Hart are introduced in a social community when the legal system reaches a higher degree of complexity. How do ordinary people and jurists perceive legal concepts in relation to their bodies, to the context in which it moves, and to other people? What are the cognitive dimensions of this legal Wonderland?

To address these questions, our research group at the Legal Theory and Cognitive Science Laboratory at the University of Bologna[3] has conducted an experiment with a large group of volunteers divided into two subgroups: law students or legal professionals, on the one hand, and students or professionals in areas other than law, on the other. The

[2]ibid 98.
[3]See <https://centri.unibo.it/alma-ai/it/laboratorio-di-teoria-del-diritto-e-scienze-cognitive>.

complete results of the experiment have been published in *Psychological Research*.[4] Here we will present these results and then offer an interpretation of what they mean for legal philosophy. As we will see, these results give some degree of confirmation to the Hartian model, while at the same time suggesting the need for some interesting qualifications and alterations to it.

The discussion will be organised as follows. In Section 2, we will provide a reconstruction of Hart's concept of the internal point of view as the adoption of a system of concepts, to this end also using some notions drawn from contemporary social ontology. In Section 3, in light of this theoretical background, we will introduce the experimental hypotheses and the paradigm, materials, methodology, and results of the experiment we have conducted. In Section 4, we will discuss the results, considering the extent to which our reconstruction of Hart's picture found confirmation, the ways in which it was instead falsified, and the ways in which that picture may need to be qualified in light of the results we obtained. Finally, we will discuss what we have in mind for this line of research going forward.

A preliminary note about methodology. This study was conceived both as a psychological investigation in embodied cognition – and in particular on the representation of abstract concepts – and as a legal-philosophical investigation adopting the paradigm of experimental jurisprudence. Experimental philosophy is a kind of conceptual analysis that starts from empirical evidence about our possession and practical use of the relevant concepts, and that is precisely our aim: to formulate hypotheses on the nature of legal institutions starting from an empirical analysis of the cognitive dimensions involved in our use of legal concepts. In most works, in both experimental philosophy and experimental jurisprudence – the latter being an instance of the former specifically devoted to legal theory – concepts have been studied focusing on categorisation tasks. The methodology we adopt is, however, different: we are not asking what falls under the domain of a given concept in order to draw its referential boundaries (e.g., 'Is this an instance of contract or property?'); we are rather trying to figure out what people *feel* whenever they process that concept (e.g., 'How much does law evoke sensation X?'). We do not focus on identifying the formal criteria which would best identify the concepts' perceived referent, as much philosophical conceptual analysis has traditionally done; nor do we conceive our experiments as a way to conduct surveys to figure out what most people in fact perceive as the referent of given concepts, as some experimental jurisprudence is now attempting to do.[5] Presupposing a theory of concepts as modal entities (that is, as clusters of nonsymbolic sensorimotor information), we are trying to investigate the *experience* of concept processing, paying special attention to the way in which expertise can affect and change that experience. The idea that guides our methodology is that concepts are *embodied*, and that this fact cannot be ignored by anyone interested in scientifically describing what legal concepts are. On this approach, concepts – including legal concepts, like that of a legal norm or of property, marriage, or crime – are best understood not as abstract formal schemes identified by definitions, but rather as bundles of feelings, memories,

[4]Caterina Villani and others, 'Is Justice Grounded? How Expertise Shapes Conceptual Representation of Institutional Concepts' [2021] Psychological Research <https://doi.org/10.1007/s00426-021-01492-8>.

[5]See, for example, Noel Struchiner, Ivar R Hannikainen, and Guilherme da FCF de Almeida, 'An Experimental Guide to Vehicles in the Park' (2020) 15 Judgment and Decision-Making, setting out to experimentally settle the age-old controversy between Hart and Fuller on the concept of rule application and on their famous 'no vehicles in the park' example.

and abilities grounded in our bodies and our experiences. We think that embodied cognition is a valuable methodological paradigm for experimental philosophy in general and for experimental jurisprudence in particular. It is valuable for experimental philosophy because the body plays a crucial role in the way we use all kinds of philosophically interesting concepts. But more particularly it is valuable for experimental jurisprudence because if we want to understand what the nature of legal institutions is, it won't be enough to determine the referents of the concepts through which we identify those institutions: it is also essential that we understand the broader social practice in which the same concepts and institutions are embedded, including the psychological factors that make it possible for them to serve as guides for behaviour. All the concepts we have studied under the label of 'institutional concepts' are 'specifically referenced in law': they are therefore clearly 'of legal significance' and fall squarely within the scope of experimental jurisprudence.[6]

2. The theoretical background: the internal point of view as mastery of a set of concepts

2.1. Hart's internal point of view

When Hart, in his masterpiece *The Concept of Law*, first introduced the notion of an internal point of view, he did so in connection with the idea of *rules*, not concepts. The story is known by everyone who has an interest in legal theory: Hart's criticism was levelled at John Austin's 'command theory' of law, on which sovereignty in a legal community is the capacity of the sovereign to enforce commands obeyed through a 'habit of obedience' instilled in people. The sovereign obeys none, all obey the sovereign because they predict that a sanction (a penalty or punishment) will follow if they do not. This theory had a lot of theoretical advantages: it was very simple, at least in its basic assumptions, and it explained in concrete terms such abstract normative notions as those of authority and of a legal norm. Taken as a whole, this was a wonderfully simple and elegant account. But it was wrong. With his famous example of a society ruled by Rex, Hart shows that habits cannot ground a legal system. The problem, in a nutshell, is that habits are mere regularities of behaviour. Hence, if the context changes, so will habits. If, for example, Rex I dies and his son, Rex II, wants to take his place, a habit of obedience to him is not already formed and hence he cannot act as sovereign, at least not until he has managed to enforce his own commands with enough regularity that a new habit is thereby instilled in people. Similar considerations apply to our obedience to past legislators: people cannot have a habit to obey legislators whose laws have been enacted long before they were born and which they do not even know. Hence habits cannot ground the continuity and persistence of a legal system: what instead is needed, Hart argues, are rules.

> There is certainly one point of similarity between social rules and habits: in both cases the behaviour in question (e.g., baring the head in church) must be general though not necessarily invariable; this means that it is repeated when occasion arises by most of the group: so much is, as we have said, implied in the phrase, 'They do it *as a rule*'. But though there is this similarity there are three salient differences. First, for the group to have a *habit* it is enough that their behaviour in fact converges. Deviation from the regular course need not be a matter for any form of criticism. […] Secondly, where there are such rules, not only is

[6]Kevin P Tobia, 'Experimental Jurisprudence' (2022) 89(3) University of Chicago Law Review 9.

> such criticism in fact made but deviation from the standard is generally accepted as a *good reason* for making it. […] The third feature distinguishing social rules from habits is implicit in what has already been said, but it is one so important and so frequently disregarded or misrepresented in jurisprudence that we shall elaborate it here. It is a feature which […] we shall call the *internal aspect* of rules. When a habit is general in a social group, this generality is merely a fact about the observable behaviour of most of the group. In order that there should be such a habit no members of the group need in any way think of the general behaviour, or even know that the behaviour in question is general; still less need they strive to teach or intend to maintain it. It is enough that each for his part behaves in the way that others also in fact do. By contrast, if a social rule is to exist some at least must look upon the behaviour in question as a general standard to be followed by the group as a whole. A social rule has an 'internal' aspect, in addition to the external aspect which it shares with a social habit and which consists in the regular uniform behaviour which an observer could record.[7]

This conclusion put Hart in a tough spot, however, because he had to work out a theory of the nature of rules that could be sufficiently simple, clear, and concrete to replace Austin's command theory. This he managed to do with his 'social practice theory of rules'. In qualifying a social practice as a rule-bound practice, Hart identified phenomena that have a distinctively external, behavioural aspect, like the fact that people within a community consistently behave according to a general pattern, or that a pattern of criticism emerges, as a matter of observable fact, when someone deviates from that regularity of behaviour. But he also introduced a notion that has an introspective aspect: the notion of a 'reflective critical attitude'.[8] The concept of an internal point of view characteristic of rules, which at this point Hart introduces, is aimed at capturing both aspects – the behavioural and the introspective.

> When a social group has certain rules of conduct, this fact affords an opportunity for many closely related yet different kinds of assertion; for it is possible to be concerned with the rules, either merely as an observer who does not himself accept them, or as a member of the group which accepts and uses them as guides to conduct. We may call these respectively the 'external' and the 'internal points of view'. […] The external point of view may very nearly reproduce the way in which the rules function in the lives of certain members of the group, namely those who reject its rules and are only concerned with them when and because they judge that unpleasant consequences are likely to follow violation. Their point of view will need for its expression, 'I was obliged to do it', 'I am likely to suffer for it if … ', 'You will probably suffer for it if … ', 'They will do that to you if … '. But they will not need forms of expression like 'I had an obligation' or 'You have an obligation' for these are required only by those who see their own and other persons' conduct from the internal point of view. What the external point of view, which limits itself to the observable regularities of behaviour, cannot reproduce is the way in which the rules function as rules in the lives of those who normally are the majority of society. These are the officials, lawyers, or private persons who use them, in one situation after another, as guides to the conduct of social life, as the basis for claims, demands, admissions, criticism, or punishment, viz., in all the familiar transactions of life according to rules. For them the violation of a rule is not merely a basis for the prediction that a hostile reaction will follow but a *reason* for hostility.[9]

Having an internal point of view in Hart's sense is therefore first and foremost a matter of considering a model of behaviour as a standard and supporting it as such in evaluating

[7]HLA Hart, *The Concept of Law* (Oxford University Press 2015) 55–56.
[8]ibid 57.
[9]ibid 89–90.

and our own behaviour and that of others. This comes with a conceptual element, corresponding to the normative vocabulary that is typically used when taking that point of view: people have the concept of 'ought', as instantiated in the idea of obligation and permission, and they express it in a characteristic use of the language.

The internal point of view becomes primarily conceptual, however, only with the introduction of secondary rules. In this case, too, the story is well-known: after his masterful criticism of the concept of habits, Hart shows that Austin's 'command theory' lacks a necessary element of any developed legal system, namely, rules that do not directly regulate behaviour but rather regulate the production, application, and recognition of rules. These rules – rules of change, rules of adjudication, and the crucial rule of recognition that provides the foundation of the legal system – are metarules, so to speak: rules about other rules, and as such they are not commands. Hence, Hart concludes, the command theory is seriously defective as a general explanation of how legal systems are structured. What bears stressing here, however, is that, as Hart points out, it is crucial to the internal point of view in developed legal systems that with the introduction of secondary rules there emerges 'a whole set of new concepts':[10] people start to talk, and in the first place to think, in terms of new meanings and concepts that crucially depend on the rules. Here is the full passage in which Hart describes the conceptual import of moving from an internal point of view on *primary* rules to an internal point of view on *secondary* rules:

> Under the simple regime of primary rules the internal point of view is manifested in its simplest form, in the use of those rules as the basis of criticism, and as the justification of demands for conformity, social pressure, and punishment. Reference to this most elementary manifestation of the internal point of view is required for the analysis of the basic concepts of obligation and duty. With the addition to the system of secondary rules, the range of what is said and done from the internal point of view is much extended and diversified. With this extension comes a whole set of new concepts and they demand a reference to the internal point of view for their analysis. These include the notions of legislation, jurisdiction, validity, and, generally, of legal powers, private and public. There is a constant pull towards an analysis of these in the terms of ordinary or 'scientific', fact-stating or predictive discourse. But this can only reproduce their external aspect: to do justice to their distinctive, internal aspect we need to see the different ways in which the law-making operations of the legislator, the adjudication of a court, the exercise of private or official powers, and other 'acts-in-the-law' are related to secondary rules.[11]

'A whole set of new concepts': legal validity, the conceptual crux of analytic jurisprudence and formalistic legal positivism, was in Hart's view the first of the notions that could find an explanation in the idea of an internal point of view on secondary rules. We cannot assess the validity of a rule unless we first apply a specific rule of recognition, a rule that is usually not stated but is rather shown in the practice of officials. The whole game of validity – a language game, one could say – is made possible by the rule of recognition, and to play this game we need to have another concept of the existence of legal rules. While the rule of recognition exists as a social rule shared by officials in their practice of applying other rules, these other rules exist under a different concept of existence: they are legally valid, where 'valid' is an internal, formal concept.

[10]ibid 98.
[11]ibid 98–99.

> The use of unstated rules of recognition, by courts and others, in identifying particular rules of the system is characteristic of the internal point of view. Those who use them in this way thereby manifest their own acceptance of them as guiding rules and with this attitude there goes a characteristic vocabulary different from the natural expressions of the external point of view. Perhaps the simplest of these is the expression, 'It is the law that … ', which we may find on the lips not only of judges, but of ordinary men living under a legal system, when they identify a given rule of the system.[12]

The relation between the rule of recognition and the notion of validity aptly exemplifies the conceptual import of the internal point of view towards secondary rules: when we adopt a secondary rule, we use new kinds of concepts made possible by that rule. This is not a necessary condition for the use of the relevant concepts, because one could use them 'from the outside', so to speak, as when a comparative lawyer states what the law is in a foreign legal system. In Hart's view, however, this external point of view that *describes* normative structures rather than adopting them is parasitic on the internal point of view, because the existence of a legal system depends on officials not just describing but *adopting* the rule of recognition.[13]

This introduces another crucial part of Hart's conception, namely, the notion of a legal system's degrees of perfection and the fundamental role that legal officials play in its existence. In discussing the conditions of existence of a legal system, Hart makes a distinction between ordinary citizens and legal officials: 'The assertion that a legal system exists is […] a Janus-faced statement looking both towards obedience by ordinary citizens and to the acceptance by officials of secondary rules as critical common standards of official behaviour'.[14] If a legal system were perfect, Hart claims, both citizens and officials would share an internal point of view towards the rules: citizens would take this point of view to the primary rules they are acquainted with, while officials would also be able to become acquainted with and accept the secondary rules, and in particular the rule of recognition. But modern legal systems are far from perfect: people normally do not share a strong commitment to the system's rules on the basis of a pondered assessment or deep understanding of them. Moreover, it would be unreasonable to assume that citizens have a detailed understanding of the complexities of the legal chain of authority and validity. Hence, Hart proposes a minimum condition for a legal system to be in place: it must at least be the case that officials have an internal point of view towards primary and secondary rules, and in particular towards the rule of recognition, whereas ordinary citizens can simply 'abide by' the rules of the system in an unreflective, passive way.

> [W]here there is a union of primary and secondary rules, which is, as we have argued, the most fruitful way of regarding a legal system, the acceptance of the rules as common standards for the group may be split off from the relatively passive matter of the ordinary individual acquiescing in the rules by obeying them for his part alone. In an extreme case the internal point of view with its characteristic normative use of legal language ('This is a valid rule') might be confined to the official world. In this more complex system, only officials might accept and use the system's criteria of legal validity.[15]

[12]ibid 102.
[13]Cf ibid 92.
[14]ibid 117.
[15]ibid 117.

This last distinction, as well as Hart's reconstruction of the internal point of view towards secondary rules as the adoption and use of a system of internal concepts, the most important being validity, forms the background of the experimental study we conducted. How are legal concepts internalised, and are they internalised in a different way by ordinary citizens and officials? Does this conceptual internalisation come with any signs of acceptance or approval? And are these signs different in the two categories? But we couldn't formulate a hypothesis exclusively concerned with the concept of validity, so we broadened the scope of our investigation to include a number of other concepts as well. This we did by using some conceptual tools available in contemporary social ontology.

2.2. Institutional concepts

We just saw, with Hart, that secondary rules have conceptual import, introducing 'a whole set of new concepts' that we come to appreciate when we adopt them as standards. This is a theme that is significantly developed and broadened in contemporary social ontology, and in particular in John Searle's theory of institutional facts. According to Searle, institutional facts 'are placeholders for patterns of *activities*',[16] just as, in Hart's theory, the rule of recognition and the statements about validity that follow from it are a practice – the practice of accepting rules as they exist within the system. And, in Searle, the constitutive rules of a given institution 'make possible' these activities, as in the case of the rules of a game, an example that is ubiquitous in Hart's work. Searle, however, broadens the scope of the idea to bring all kinds of institutional concepts into the 'set of new concepts'. In Searle's philosophy, Hart's concept of an internal point of view towards the source and grounds of a legal system becomes the idea of our being part of a world full of institutional facts of all kinds:

> One of the advantages of living in other cultures is that one can become more acutely conscious of the different and unfamiliar institutional structures. But at home one is less aware of the sea of institutionality. I get up in the morning in a house jointly *owned* by me and my *wife*. I drive to do my *job* on the *campus* in a car that is *registered* to both of us, and I can drive *legally* only because I am the holder of a *valid California driver's license*. On the way, I *illegally* answer a cell phone call from an old *friend*. Once I am in my *office* the weight of institutional reality increases. I am in the *Philosophy Department* of the *University of California* in *Berkeley*. I am surrounded by *students*, *colleagues*, and *university employees*. I teach *university courses* and make various *assignments* to my *students*. The *university pays* me, but I never see any *cash* because my *pay* is *deposited* automatically into my *bank account*. […] All the italicized expressions in the previous paragraph refer to institutional reality in its various aspects. Institutional facts range all the way from the informality of friendship to the extreme legal complexities of international corporations.[17]

Like Hart's legal philosophy, Searle's analysis of social ontology is well known. In his theory, institutional facts are made possible by status-function declarations, understood as attributions of deontic powers by means of collective acceptance. A fact like 'the President of the Republic appointed Mr. Piano as senator for life' presupposes the following: people in a given community, with its legal system, accept that under certain conditions someone in that system is President, and that being President entails, among other

[16] John Searle, *The Construction of Social Reality* (Free Press 1995) 56.
[17] John Searle, *Making the Social World* (Oxford University Press 2010) 91–101.

things, having the power to appoint senators for life. Searle uses two formulas to express this basic building block of institutional reality: 'We collectively recognise or accept (S has power (S does A))'[18] and 'X counts as Y in context C'. The latter is what Searle calls a constitutive rule. Constitutive rules are created with special kinds of speech acts called standing declarations (which unlike other kinds of declarations create status functions on an indefinite number of objects), and once created, these rules become part of a community's shared social framework.

According to Searle, at the basis of human civilisation are language and concepts encoding constitutive rules, as shown by this interesting passage where he compares the leader of a human tribe to the leader of a pack of wolves. In drawing this comparison, Searle's account mirrors Hart's criticism of Austin: he shows how what is specific about human social systems is their normativity, and how this normativity can only be accounted for on the basis of the conceptual capacities of the members involved, which capacities cannot be explained by reference to mere behavioural dispositions, such as the disposition to avoid punishment out of fear.

> I am making a distinction between simple dispositions to behavior, which do not require language, from cases where there is an institutional deontology. Such a deontology can exist only if it is represented as existing. This distinction, between deontologies and dispositions, is also exemplified by the difference between a human tribe having a recognized leader and a pack of wolves having an alpha male. The leader has a continuing deontic status, an authority represented by and created by language. The alpha male wolf is treated with fear and respect because of his physical strength, but he has no publicly recognized deontology. Such a deontology requires language. Why? Because without a language you have only prelinguistic intentional states such as desires and beliefs together with dispositions. To get to the point that you can recognize an obligation as an obligation, you have to have the concept of an obligation, because you have to be able to represent something as an obligation, that is, something that gives you a reason for action independent of your inclinations and desires. You need not have the actual word "obligation" or some synonym, but you must have a conceptual apparatus rich enough to represent deontology.[19]

Searle's insistence on the conceptual dimension of institutional reality is crucial and strongly parallels Hart's view. 'President of the Republic' is a new concept, whose criteria of application and whose normative significance is constituted by standing declarations, just as Hart's 'legal validity' in a given legal system is created by that system's rule of recognition. Hence, institutional facts are described in propositions whose meaning depends on the conceptual creation of constitutive rules. An essential part of constitutive rules 'making new practices possible' is their capacity to introduce new meanings, through which new propositions can be formulated to describe the new facts relevant to the practice.

Searle clarifies that we can make 'epistemically objective' statements about 'ontologically objective facts'. Institutional facts are subjective entities about which we can make objective judgments.[20] What this means is that, even though the genesis and maintenance of institutional facts depend on human acceptance and are therefore in this sense

[18]ibid 103.
[19]ibid 95.
[20]John Searle, *The Construction of Social Reality* (Free Press 1995) 56 and *Making the Social World* (Oxford University Press 2010) 17–18.

subjective – as mentioned, they populate the 'Wonderland' of our collective institutional domain – the judgments we make about them are objective because their truth or falsity is a plain matter of fact, which does not depend on our attitudes, feelings, or preferences. The whole institutional status 'President of the Republic' ultimately depends for its existence on collective acceptance, but once it is maintained in existence, the fact that the President appointed someone as senator for life can be ascertained in a way that is not relative to one's belief.

This idea of Searle's finds a strong analogy with Hart's formalistic legal positivism. There has been much discussion about whether Hart's semantics should be conceived as a kind of expressivism, and hence as noncognitivist, such that internal statements of law should not be understood to have a truth value,[21] or whether these statements should instead be conceived under a descriptivist semantics, in which case they *would*, by contrast, have a truth value.[22] In a recent paper, Stephen Finlay and David Plunkett offer an intermediate solution.[23] They argue that, on Hart's conception, the meaning of 'statements of law' (statements stating what the content of the law is in a given legal system, and hence statements about legal validity) should be construed coupling a descriptive semantics with an expressive pragmatics. The semantics of statements is descriptive and rule-relational: to state that a rule is valid is to state that it meets the criteria of validity of the rule of recognition, and this is a relation that can be described even without adopting the rule of recognition from an internal point of view. The adoption of an internal point of view can instead be expressed pragmatically, as a form of acceptance.

We will go back to Finlay and Plunkett's theory at the end of this paper. What we would like to note here, however, is that the rule-relation account of the meaning of statements of law that Finlay and Plunkett defend as being the best interpretation of Hart's theory is perfectly consistent with Searle's account of epistemically objective, rule-constituted institutional facts. Just as, in Searle, propositions describing institutional facts can be ascertained objectively given a collectively accepted set of constitutive rules, in Finlay and Plunkett's reading of Hart, judgments of legal validity can have a truth value relative to an accepted rule of recognition. Finlay and Plunkett can be interpreted to argue that if I assert an institutional fact internally, I am also expressing my acceptance of an institution's constitutive rules. Searle does not make this distinction between stating the fact internally and stating it externally: he instead seems to assume, as in the quotation above, that if I 'live in' and 'act by' the rules of a given institution I am thereby 'expressing' my acceptance, albeit in a wide range of possible attitudes ranging from 'enthusiastic endorsement' to 'grudging submission'.[24] Hart's distinction between an internal and an external attitude, as well as Finlay and Plunkett's distinction between a descriptive semantics and a possible expressive pragmatics, can therefore be seen as a substantial enrichment of Searle's thesis.

[21]Kevin Toh, 'Hart's Expressivism and His Benthamite Project' (2005) 11(2) Legal Theory 77 and Joseph Raz, 'HLA Hart (1907–1992)' (1993) 5(2) Utilitas 145–56.

[22]Matthew Kramer, 'Hart and the Metaphysics and Semantics of Legal Normativity' (2018) 31(4) Ratio Juris 396–420.

[23]Stanley Finlay and David Plunkett, 'Quasi-Expressivism about Statements of Law: A Hartian Theory' in John Gardner, Leslie Green, and Brian Leiter (eds), *Oxford Studies in Philosophy of Law*, vol 3 (Oxford University Press 2018) 49–86.

[24]Cf, for example, John Searle, *Making the Social World* (Oxford University Press 2010) 8.

2.3. Meta-institutional concepts

We have shown how Searle's theory broadens Hart's scope to the whole of the institutional domain, while Hart's theory complements Searle's conception by introducing the distinction between an internal and an external attitude: this is the theoretical background of our study. In framing our experimental work, however, we thought that Hart's and Searle's accounts had to be further qualified so as to translate them into experimental hypotheses. Searle's notion of an institutional fact (or concept) needs to be significantly shaded. If we consider a system of constitutive rules making up an institution, it seems clear that while some concepts in that system are constituted by the rules, others are presupposed. The problem can be illustrated through the classic example of chess. Some concepts in chess are constituted by the rules of the game: the concept of chess pieces – the king, queen, bishop, etc. – are created by the rules by way of a definition of what they can do, how they may move, where they must be placed at the beginning of a match. But, as Dolores Miller has shown,[25] there is at least one concept in the game which is crucial to the entire practice and is not constituted by the rules of the game, and that is the concept of competition and victory: 'Football, chess, baseball, are institutionalised forms of competition, which itself is a meta-institutional feature of life. The essential rule for football, chess, baseball, will be statements identifying the institution as forms of competition'. Of course, the rules of chess define *how* players can win – by checkmating the opponent's king – but they do not explain *what it means to win* in a game. This is instead presupposed by the constitutive rules of chess. Several other concepts relevant to chess are on the same level as competition and victory, like the very idea of a player or the idea of cheating. These concepts must be in place in order for chess to have meaning, but they are not *constituted* by the rules of chess: they are instead *presupposed* by them and shared by many different games. These are not institutional, but *meta*-institutional concepts.

The parallel between Hart and Searle needs this distinction between institutional and meta-institutional concepts because the concept of validity is a *meta*-institutional concept, not an institutional one. A legal system's norm-production rules specify the conditions of validity for that system, and they constitute the system's norm-enacting practice, but they presuppose, rather than constitute, the concept of legal validity, exactly in the same way as the rules of checkmate in chess specify the conditions of victory but presuppose the concept of victory. Validity does not mean different things in different legal systems; what differs, instead, is the way in which it is ascertained in different systems. In criticising Kelsen on the idea of a 'basic norm', Hart argued that the validity of the rule of recognition cannot be presupposed, because there is no meaning of the term *validity* apart from the meaning constituted by the specific game of validity made possible by the rule of recognition itself.[26] Our idea, in contrast, is that there *is* such a meaning, and it is the meaning of *validity* as a meta-institutional concept, for otherwise the different games of validity could not be compared: it would be impossible to do any comparative law, and in fact it would prove nonsensical to even endeavour to compare different systems as to their sources of law, just as it

[25]Dolores Miller, 'Constitutive Rules and Essential Rules' (1981) 39(2) Philosophical Studies 188.
[26]HLA Hart, *The Concept of Law* (Oxford University Press 2015) 108–09.

would make no sense to compare the pieces on the chessboard with those on the chequerboard.

This shows that behind the concepts constituted by the rules of an institution, there is a deeper layer of presupposed, nonconstituted, meta-institutional concepts that provide the framework within which the former can find a proper meaning. As Giuseppe Lorini puts it,

> meta-institutional concepts are concepts that are conditions of possibility of institutions (and therefore of institutional facts). The phrase "meta-institutional concepts" refers to the fact that the meta-institutional concepts go beyond (Greek: μετά metá) the institutions of which they are conditions of possibility.[27]

An interesting problem is what the meta-institutional concepts in law are apart from validity. Of course, this would require an extensive investigation, but we think that a tentative list should at least also include such basic concepts as those of duty, justice, responsibility, and sanction (in the sense of a penalty or punishment): all, according to the hypothesis we are testing, are meta-institutional, rather than institutional, concepts.

3. The experimental study

3.1. The two main hypotheses

We are now in a position to make clear the rationale behind our experimental study. The study was aimed at investigating the cognitive dimensions of legal and institutional concepts as compared with abstract concepts of another kind (scientific concepts, and in particular ones drawn from physics and mathematics) and with two kinds of concrete concepts (artefact concepts and food concepts), taking into account the variable of legal expertise. The composite theoretical background we have discussed led us to formulate two separate hypotheses:

(1) *Internal point of view*. Legal experts process institutional concepts differently from nonexperts, and specifically, in various cognitive dimensions, they adopt institutional concepts more directly than nonexperts and with a deeper commitment, coherently with Hart's idea of an internal point of view.
(2) *Meta-institutional concepts*. In various cognitive dimensions, meta-institutional concepts are processed differently from institutional concepts, and are processed differently by experts and nonexperts.

Let us clarify how these hypotheses are connected with the underlying legal theory. As we have shown, Hart assumes that there is a difference in attitude between citizens and officials, and that one crucial aspect of this difference has to do with the way they use and master concepts in adopting secondary rules. Hence, by studying the differences between the cognitive dimensions of institutional concepts in citizens and officials, we aim to experimentally find some relevant cognitive features of Hart's internal point of view. Moreover, having enriched Hart's picture by bringing in the distinction between institutional and meta-institutional concepts, we aim to enquire, first, whether that distinction also finds confirmation as a difference in the cognitive dimensions that are

[27]Giuseppe Lorini, 'Meta-Institutional Concepts: A New Category for Social Ontology' (2014) 56 Rivista di estetica 127.

perceived to be relevant for the two classes of subjects, and second, whether this perception varies depending on expertise and hence on a stronger commitment to the internal point of view.

We tested the hypotheses by using an experimental method that cognitive psychologists call 'embodied cognition'. We will thus briefly explain the paradigm the experiment presupposes, and we will then look more closely at the methodology which was employed in the experiment and the data that were gathered.

3.2. The paradigm: embodied cognition

For a long time, research on human conceptualisation has proceeded on the working assumption that our ability to form and think in terms of categories is the result of abstract, symbolic representations of these categories, somehow encoded in our brains. Concepts were traditionally thought to be representations of this kind, and were described as the product of a sort of translation from the sensorimotor inputs to what we can define an 'amodal' language, i.e., a language made of symbols which (much like words written in a nonideogrammatic alphabet) do not bear any trace of the sensory *modality* involved in our practical interaction with the represented object or in the process through which we perceive the representation itself. Concepts were conceived as *disembodied* and detached from the mechanisms governing perception and action. According to this view, our concept of a banana, for example, has nothing to do with the visual image of a banana, the taste of bananas, or the physical and social environment where we employ the notion of bananas. Recent research, however, has been gathering more and more evidence that this traditional view is misguided. Concepts have been shown to be deeply *embodied*. Hence the label 'embodied cognition', referring to the research programme aimed at shedding light on the ways in which our ability to form and represent concepts interacts with our perception of the environment and our dispositions to act. On these embodied approaches, all concepts are flexible entities, reenacting and integrating relevant information about a given category in a situated context so as to support goal-oriented action.[28] The information retrieved by a concept may vary dynamically depending on context, the task at hand, and individual differences.[29]

Taking this perspective, one of the most fruitful lines of research is that which sets out to identify salient distinctions between different types of concepts on the basis of their embodied features. That is the research programme we followed in our study. The experiment was devised to reveal the embodied salience and significance of institutional concepts as categories, this in part to assess the extent to which the features of such categories offer evidence in favour of or against the philosophical model of institutional reality we can infer from Hart.

3.3. The experiment: procedure, materials, and data

For the experiment, 567 volunteers were recruited among students and researchers of the University of Bologna and among people who work in the Bologna area. The

[28]E.g., Lawrence Barsalou, 'Perceptions of Perceptual Symbols' (1999) 22(4) Behavioral and Brain Sciences 637–60.
[29]Eiling Yee and Sharon L Thompson-Schill, 'Putting Concepts into Context' (2016) 23 Psychonomic Bulletin & Review 1015–27.

participants were split into two groups: a Law Group and a Control Group. The Law Group consisted of 289 law students or legal professionals and the Control Group consisted of 278 students and professionals in fields other than law, such as philosophy, art, and communication science. We asked them to fill in a Google Form and rate 56 Italian words according to various criteria. This made it possible for us to classify words according to various 'dimensions', for example, according to the degree to which the respondents thought the word was abstract or concrete, how easily they could contextualise its referent, how readily this referent could be imagined, and so on.[30] More specifically, we asked both groups to evaluate four kinds of concepts (i.e., institutional, theoretical/scientific, food, artefact) in the following dimensions: Abstractness-Concreteness (ABS-CNR); Imageability (IMG); Contextual Availability (CA); Familiarity (FAM); Age of Acquisition (AoA); Modality of Acquisition (MoA); Social Valence (SOC); Social Metacognition (MESO); Arousal (ARO); Valence (VAL); Interoception (INT); Metacognition (META); Perceptual Modality Strength in vision, hearing, touch, taste, and smell modalities (VIS, HEA, TOU, TAS, SME); Body-Object Interaction (BOI); Mouth Involvement (MOUTH); and Hand Involvement (HAND). The 56 words employed for the experiment are the following:

- 14 words denoting institutional concepts: contract, state, president, marriage, parliament, trial, property, norm (understood as any legal rule), rights, duty, sanction (penalty or punishment), responsibility, validity, justice (*contratto*, *stato*, *presidente*, *matrimonio*, *parlamento*, *processo*, *proprietà*, *norma*, *diritti*, *dovere*, *sanzione*, *responsabilità*, *validità*, *giustizia*);
- 14 words denoting theoretical/scientific abstract concepts: mass, acceleration, subtraction, temperature, sum, energy, litre, metre, gravity, calculation, equation, molecule, electron, multiplication (*massa*, *accelerazione*, *sottrazione*, *temperatura*, *somma*, *energia*, *litro*, *gravità*, *calcolo*, *equazione*, *molecola*, *elettrone*, *moltiplicazione*);
- 14 words denoting food concepts: banana, carrot, grape, strawberry, mushroom, eggplant, pepper, tomato, pumpkin, basil, apple, orange, chestnut, potato (*banana, carota, uva, fragola, fungo, melanzana, pepe, pomodoro, zucca, basilico, mela, arancia, noce, patata*);
- 14 words denoting artefact concepts: hammer, wheel, knife, pot, spoon, tower, umbrella, bed, screwdriver, painting, chair, sculpture, book, computer (*martello, ruota, coltello, pentola, cucchiaio, torre, ombrello, letto, cacciavite, dipinto, sedia, scultura, libro, computer*).

In selecting the institutional-concept words, we decided to include an equal number of words belonging to two different subcategories which we suspected had cognitively significant differences between them.

Seven of the selected institutional-concept words denote institutions whose structure and normative significance is constituted by the rules of the Italian legal system (contract,

[30]For a similar paradigm, see C Villani, L Lugli, MT Liuzza, and AM Borghi, 'Varieties of Abstract Concepts and Their Multiple Dimensions' (2019) 11(3) Language and Cognition 403–30; SJ Crutch, J Troche, J Reilly, and GR Ridgway, 'Abstract Conceptual Feature Ratings: The Role of Emotion, Magnitude, and Other Cognitive Domains in the Organization of Abstract Conceptual Knowledge' (2013) 7(186) Frontiers in Human Neuroscience 1–14.

state, president, marriage, parliament, trial, property). We refer to concepts of this kind as *pure institutional concepts*.

The remaining seven denote background institutional notions which are necessary to constitute the institution's structure and normative significance, but which are not themselves constituted – they are rather presupposed – by the rules of the Italian legal system (norm, rights, duty, sanction, responsibility, validity, justice). We refer to this second subcategory as *meta-institutional concepts*.

For example, the word *contratto* in Italian (as well as the word 'contract' in English) stands for a pure institutional concept because the structure and normative significance of contracts in the Italian legal system are fully constituted by Italian private law. The word *validità* (as well as the word 'validity'), on the other hand, stands for a meta-institutional concept, a background notion which is not constituted but is rather presupposed by the rules of the Italian legal system, and which one must necessarily grasp in order to be able to understand other institutional concepts, such as contract, statute, and constitution.

3.4. Analysis and results

For each dimension, we conducted a Generalised Estimated Equations model (GEE), a statistical analysis that makes it possible to determine whether the rating scores obtained with institutional concepts differ significantly from those of other categories of concepts (see Table 1), and whether the Law Group and Control Group perceive these concepts differently (see Figure 1). Specifically taken into consideration were Category (Institutional, Theoretical/Scientific, Food, and Artefact) as a within-subject factor and Group (Law Group and Control group) as a between-subject factor. Furthermore, in order to explore the difference within institutional concepts, we conducted a subsequent analysis considering the Type of Institutional interaction (Pure-Institutional and Meta-Institutional) as a within-subject factor (see Table 2).

Importantly, the results showed a significant Group × Category interaction (see Figure 1) and a Group × Type of Institutional interaction (see Figure 2). All the figures and tables below are taken from the original publication of these data in *Psychological Research*.[31]

4. Discussion of the results

4.1. First distinction: epistemic vs practical internal point of view

In Section 3.1, we formulated the hypothesis that legal experts process institutional concepts differently from nonexperts, and that these differences can be set down to the internal point of view. Our data show that legal experts rate institutional concepts as being more contextually situated (high CA), more familiar (high FAM), acquired earlier (low AoA), more 'touchable' (high TOU), and associated with a more positive valence (high VAL) (see Figure 1). It seems, therefore, that there are two elements to the conceptual dimension of the internal point of view: a stronger epistemic capacity

[31]Caterina Villani and others, 'Is Justice Grounded? How Expertise Shapes Conceptual Representation of Institutional Concepts' [2021] Psychological Research. <https://doi.org/10.1007/s00426-021-01492-8>.

Table 1. Results of Generalised Estimated Equations (GEE) with Category (institutional, theoretical, food, artefact) as within-subject factor and Group (law-group and control-group) as between-subject factor.

		Category				Group			Group × Category		
		Wald	Df	p		Wald	Df	p	Wald	Df	p
CNR-ABS	Institutional ($M = 4.1$)	196.417	3	**.001**	Law ($M = 5.2$)	.341	1	.599	2.088	3	.554
	vs. Scientific ($M = 4$)	170	1	1							
	vs. Food ($M = 6.8$)	211.107	1	**.001**	Control ($M = 5.1$)						
	vs. Artefact ($M = 6.7$)	207.222	1	**.001**							
IMG	Institutional ($M = 3.9$)	221.223	3	**.001**	Law ($M = 5.2$)	1.386	1	.239	6.536	3	.088
	vs. Scientific ($M = 3.9$)	.012	1	1							
	vs. Food ($M = 6.7$)	334.223	1	**.001**	Control ($M = 4.9$)						
	vs. Artefact ($M = 6.6$)	374.983	1	**.001**							
CA	Institutional ($M = 4.6$)	66.544	3	**.001**	Law ($M = 5.0$)	2.079	1	.149	28.854	3	**.001**
	vs. Scientific ($M = 4.3$)	15.181	1	**.001**							
	vs. Food ($M = 2.1$)	8.793	1	**.009**	Control ($M = 5.4$)						
	vs. Artefact ($M = 2.4$)	16.222	1	**.001**							
AoA	Institutional ($M = 4.6$)	352.688	3	**.001**	Law ($M = 3.0$)	1.462	1	.227	16.806	3	**.001**
	vs. Scientific ($M = 4.3$)	10.654	1	**0.003**							
	vs. Food ($M = 2.1$)	353.02	1	**.001**	Control ($M = 3.3$)						
	vs. Artefact ($M = 2.4$)	397.889	1	**.001**							
MoA	Institutional ($M = 4.5$)	93.817	3	**.001**	Law ($M = 3.2$)	.269	1	.604	1.085	3	.781
	vs. Scientific ($M = 5$)	2.033	1	.462							
	vs. Food ($M = 1.9$)	209.358	1	**.001**	Control ($M = 3.3$)						
	vs. Artefact ($M = 2.3$)	209.422	1	**.001**							
SOC	Institutional ($M = 5.7$)	81.594	3	**.001**	Law ($M = 3.0$)	.685	1	.408	3.911	3	.271
	vs. Scientific ($M = 2.8$)	132.286	1	**.001**							
	vs. Food ($M = 2.2$)	125.665	1	**.001**	Control ($M = 3.4$)						
	vs. Artefact ($M = 3$)	114.944	1	**.001**							
MESO	Institutional ($M = 3.2$)	284.447	3	**.001**	Law ($M = 2.1$)	.433	1	.511	6.564	3	.087
	vs. Scientific ($M = 3.2$)	.246	1	1							
	vs. Food ($M = 1.2$)	75.445	1	**.001**	Control ($M = 1.9$)						
	vs. Artefact ($M = 1.4$)	79.852	1	**.001**							
ARO	Institutional ($M = 4$)	68.102	3	**.001**	Law ($M = 2.8$)	.709	1	.400	6.428	3	.093
	vs. Scientific ($M = 2.7$)	77.634	1	**.001**							
	vs. Food ($M = 2.7$)	31.511	1	**.001**	Control ($M = 3.1$)						
	vs. Artefact ($M = 2.9$)	49.081	1	**.001**							
VAL	Institutional ($M = 4.6$)	28.779	3	**.001**	Law ($M = 4.7$)	3.045	1	.081	12.337	3	**.006**
	vs. Scientific ($M = 4.1$)	6.336	1	**.035**							
	vs. Food ($M = 5$)	7.142	1	**.023**	Control ($M = 4.3$)						
	vs. Artefact ($M = 4.5$)	.188	1	1							
INT	Institutional ($M = 4$)	24.954	3	**.001**	Law ($M = 3.4$)	.036	1	.849	.431	3	.934
	vs. Scientific ($M = 3.1$)	14.664	1	**.001**							
	vs. Food ($M = 3.2$)	7.195	1	**.022**	Control ($M = 3.3$)						
	vs. Artefact ($M = 3.1$)	19.773	1	**.001**							
META	Institutional ($M = 4.7$)	64.688	3	**.001**	Law ($M = 3.3$)	3.002	1	.083	6.088	3	.107
	vs. Scientific ($M = 3.6$)	33.221	1	**.001**							
	vs. Food ($M = 2.7$)	51.286	1	**.022**	Control ($M = 3.8$)						
	vs. Artefact ($M = 3.3$)	43.077	1	**.001**							
VIS	Institutional ($M = 4.4$)	56.441	3	**.001**	Law ($M = 5.3$)	1.329	1	.249	7.583	3	.055
	vs. Scientific ($M = 4.5$)	.165	1	1							
	vs. Food ($M = 5.9$)	36.533	1	**.001**	Control ($M = 4.9$)						
	vs. Artefact ($M = 6.0$)	51.110	1	**.001**							
HEA	Institutional ($M = 3.5$)	94.733	3	**.001**	Law ($M = 2.7$)	.702	1	.402	6.096	3	.107
	vs. Scientific ($M = 2.5$)	39.864	1	**.001**							
	vs. Food ($M = 1.7$)	76.163	1	**.001**	Control ($M = 2.4$)						
	vs. Artefact ($M = 3$)	6.930	1	**.025**							
TOU	Institutional ($M = 2$)	269.925	3	**.001**	Law ($M = 3.6$)	3.654	1	.056	26.073	3	**.001**
	vs. Scientific ($M = 2.6$)	30.625	1	**.001**							
	vs. Food ($M = 4.9$)	136.141	1	**.001**	Control ($M = 3.0$)						
	vs. Artefact ($M = 4.8$)	336.637	1	**.001**							

(*Continued*)

Table 1. Continued.

		Category				Group			Group × Category		
		Wald	Df	p		Wald	Df	p	Wald	Df	p
TAS	Institutional ($M = 1.3$)	1099.220	3	**.001**	Law ($M = 2.0$)	.587	1	.443	1.642	3	.650
	vs. Scientific ($M = 1.4$)	.991	1	.959	Control						
	vs. Food ($M = 6$)	661.493	1	**.001**	($M = 1.9$)						
	vs. Artefact ($M = 1.6$)	18.369	1	**.001**							
SME	Institutional ($M = 1.5$)	251.863	3	**.001**	Law ($M = 2.4$)	2.249	1	.134	2.040	3	.564
	vs. Scientific ($M = 1.6$)vs.	1.088	1	.891	Control						
	Food ($M = 4.8$)vs.	201.666	1	**.001**	($M = 2.0$)						
	Artefact ($M = 2.2$)	76.979	1	**.001**							
BOI	Institutional ($M = 4.1$)	42.130	3	**.001**	Law ($M = 2.5$)	.968	1	.325	.639	3	.887
	vs. Scientific ($M = 3.6$)	6.441	1	**.033**	Control						
	vs. Food ($M = 1.7$)	52.684	1	**.001**	($M = 2.8$)						
	vs. Artefact ($M = 2$)	50.701	1	**.001**							
MOUTH	Institutional ($M = 3.9$)	43.359	3	**.001**	Law ($M = 3.7$)	2.344	1	.126	1.021	3	.796
	vs. Scientific ($M = 2.8$)	21.312	1	**.001**	Control						
	vs. Food ($M = 5.1$)	7.802	1	**.016**	($M = 3.3$)						
	vs. Artefact ($M = 2.8$)	14.301	1	**.001**							
HAND	Institutional ($M = 2.9$)	66.526	3	**.001**	Law ($M = 3.6$)	.456	1	.500	5.393	3	.145
	vs. Scientific ($M = 2.9$)	.025	1	1	Control						
	vs. Food ($M = 4.5$)	18.172	1	**.001**	($M = 3.8$)						
	vs. Artefact ($M = 4.8$)	45.339	1	**.001**							

Notes: For each dimension, the first column reports the results of the main factor Category and, for that Category, the planned single contrast between the average scores obtained for Institutional concepts vs Food, Artefacts, and Theoretical/Scientific concepts; the second column reports the average scores for the main factor Group (Law Group and Control Group); and the third column reports the results of the interaction between Category and Group. Significant results are shown in bold, denoting significant differences. Results showing simple contrasts refer to Bonferroni adjusted p-values.

to concretise the institutional entity as if it were touchable and 'out there in the world', and an emotional attachment to and familiarity with that entity. On the one hand, expertise in the use of institutional concepts is associated with epistemic abilities, such as the ability to perceive concepts as concrete and to contextualise them. On the other hand, it is associated with special feelings and dispositions. This suggests an analytical distinction between two senses in which we could be said to be taking an internal point of view on a set of rules or normative concepts: in the first sense we have an epistemic ability to apply rule-constituted concepts; in the second, a practical disposition to justify and criticise behaviour in light of those concepts. Empirically, we can see that these two aspects go hand in hand.

As we have seen, when Hart introduced the concept of an internal point of view, he had in mind a practice of accepting rules: if people use the rules as standards for justifying and criticising their behaviour and that of others, it is because they accept the rules. But the reason why people accept the rules is not necessarily or strictly moral. As Hart clarifies in his *Postscript* to *The Concept of Law*, writing in reply to Dworkin, rules can be adopted simply because they are conventional or out of deference to tradition.[32] What is important for the purposes of having an internal point of view is just that they *are* in fact accepted, regardless of the reason. And this also goes for secondary rules, with 'the whole set of new concepts' they give rise to (what we are describing as institutional concepts). Indeed, as is well-known, most of the debate between Hart and Dworkin (and most of the debate on inclusive and exclusive legal positivism that came in its wake) is about whether it is possible to give a conventional reading of the internal

[32]See HLA Hart, *The Concept of Law* (Oxford University Press 2015) 257.

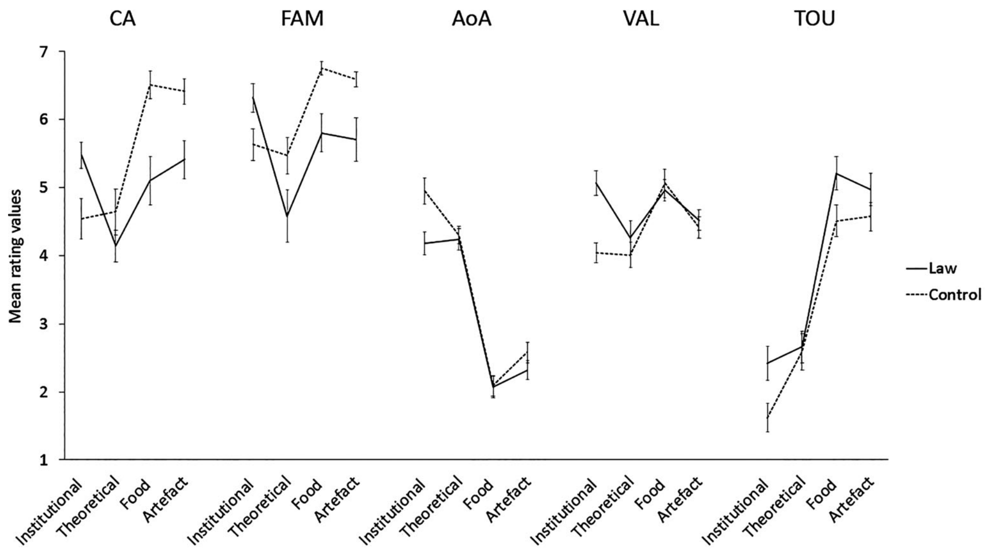

Figure 1. Mean rating values by Group (Law Group vs Control Group) as a function of Category (Institutional, Theoretical/Scientific, Food, Artefact) in the dimensions that showed a significant Group × Category interaction. Error bars indicate standard errors in the mean. Lines that do not overlap indicate a significant difference between the two groups.

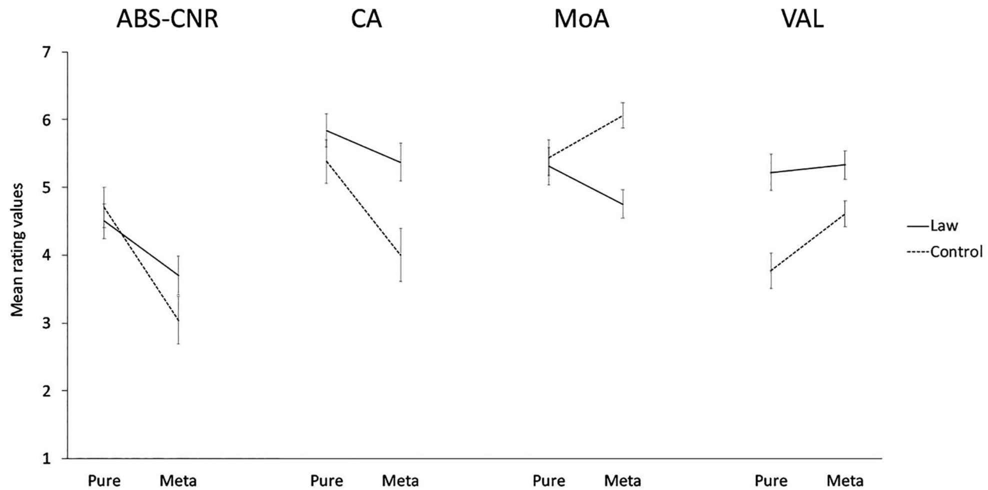

Figure 2. Mean rating values by Group (Law Group vs Control Group) as a function of Type of Institutional Concept (Pure, Meta) in the dimensions that showed a significant Group × Type of Institutional Concept. Error bars indicate standard errors in the mean. Lines that do not overlap indicate a significant difference between the two groups.

point of view towards the rule of recognition, and so about the concept of legal validity. In a sense, positivists have argued, being internal to a given institution could simply be a matter of sharing some technical conventions for selecting valid rules. As Gerald Postema puts it, 'the insider understanding of IPOV [the internal point of view] is neutral regarding the reasons for which an individual might choose to participate in the practice of the

Table 2. Results of Generalized Linear Models (GLM) applied for each dimension with the Type of Institutional (pure-institutional and meta-institutional) as within-subject factor and Group (law-group and control-group) as between-subject factor.

	Group			Type of Institutional Concept			Group by Type		
	Wald	Df	*p*	Wald	Df	*p*	Wald	Df	*p*
ABS-CNR	.612	1	.434	29.960	1	**.001**	3.888	1	**.049**
	Law ($M = 4.1$)			Pure ($M = 4.6$)					
	Control ($M = 3.7$)			Meta ($M = 3.3$)					
IMG	3.073	1	.080	45.000	1	**.001**	3.683	1	.055
	Law ($M = 4.1$)			Pure ($M = 4.9$)					
	Control ($M = 3.4$)			Meta ($M = 2.8$)					
CA	4.789	1	**.029**	24.696	1	**.001**	7.607	1	**.006**
	Law ($M = 5.6$)			Pure ($M = 5.6$)					
	Control ($M = 4.6$)			Meta ($M = 4.6$)					
FAM	4.648	1	**.031**	5.791	1	**.016**	.376	1	.540
	Law ($M = 6.3$)			Pure ($M = 5.8$)					
	Control ($M = 5.6$)			Meta ($M = 6.0$)					
AoA	12.269	1	**.001**	2.041	1	.153	.555	1	.456
	Law ($M = 4.0$)			Pure ($M = 4.4$)					
	Control ($M = 5.0$)			Meta ($M = 4.6$)					
MoA	9.924	1	**.002**	.001	1	.973	5.643	1	**.018**
	Law ($M = 5.0$)			Pure ($M = 5.3$)					
	Control ($M = 5.7$)			Meta ($M = 5.3$)					
SOC	1.837	1	.175	.084	1	.772	.084	1	.772
	Law ($M = 6.1$)			Pure ($M = 5.8$)					
	Control ($M = 5.5$)			Meta ($M = 5.8$)					
MESO	.024	1	.878	10.057	1	**.002**	.052	1	.819
	Law ($M = 3.2$)			Pure ($M = 2.9$)					
	Control ($M = 3.1$)			Meta ($M = 3.4$)					
ARO	1.222	1	.269	18.606	1	**.001**	.073	1	.786
	Law ($M = 4.3$)			Pure ($M = 3.5$)					
	Control ($M = 3.8$)			Meta ($M = 4.7$)					
VAL	14.994	1	**.001**	9.006	1	**.003**	5.894	1	**.015**
	Law ($M = 5.2$)			Pure ($M = 4.4$)					
	Control ($M = 4.1$)			Meta ($M = 5.0$)					
INT	.008	1	.929	21.134	1	**.001**	.454	1	.500
	Law ($M = 3.8$)			Pure ($M = 3.4$)					
	Control ($M = 3.8$)			Meta ($M = 4.2$)					
META	.226	1	.635	10.515	1	**.001**	.769	1	.381
	Law ($M = 4.8$)			Pure ($M = 4.3$)					
	Control ($M = 4.6$)			Meta ($M = 5.1$)					
VIS	4.129	1	**.042**	26.986	1	**.001**	.000	1	.996
	Law ($M = 5.0$)			Pure ($M = 5.2$)					
	Control ($M = 3.9$)			Meta ($M = 3.7$)					
HEA	5.589	1	**.018**	.000	1	1.000	.000	1	1.000
	Law ($M = 4.1$)			Pure ($M = 3.3$)					
	Control ($M = 2.7$)			Meta ($M = 3.3$)					
TOU	3.439	1	.064	.436	1	.509	.011	1	.916
	Law ($M = 2.1$)			Pure ($M = 1.8$)					
	Control ($M = 1.4$)			Meta ($M = 1.7$)					
TAS	3.874	1	**.049**	1.103	1	.294	1.103	1	.294
	Law ($M = 1.1$)			Pure ($M = 1.0$)					
	Control ($M = 1.0$)			Meta ($M = 1.0$)					
SME	1.611	1	.204	.057	1	.812	.057	1	.812
	Law ($M = 1.5$)			Pure ($M = 1.3$)					
	Control ($M = 1.1$)			Meta ($M = 1.3$)					
BOI	3.584	1	.058	1.670	1	.196	1.123	1	.289
	Law ($M = 3.5$)			Pure ($M = 3.8$)					
	Control ($M = 4.5$)			Meta ($M = 4.1$)					
MOUTH	2.072	1	.150	6.995	1	**.008**	1.508	1	.219
	Law ($M = 4.3$)			Pure ($M = 4.0$)					
	Control ($M = 3.5$)			Meta ($M = 3.7$)					

(*Continued*)

Table 2. Continued.

	Group			Type of Institutional Concept			Group by Type		
	Wald	Df	*p*	Wald	Df	*p*	Wald	Df	*p*
HAND	.793 Law ($M = 2.4$) Control ($M = 2.9$)	1	.373	3.544 Pure ($M = 2.8$) Meta ($M = 2.5$)	1	.060	1.690	1	.194

Notes: For each dimension, the first column reports the results of the main factor Category and the average scores obtained for Pure Institutional Concepts and Meta-Institutional Concepts; the second column reports the average scores for the main factor Group (Law Group vs Control Group); and the third column reports the results of the interaction between Category and Group. Significant results are shown in bold, denoting significant differences. Results showing simple contrasts refer to Bonferroni adjusted p-values.

rule'.[33] Our data do not show that Hart was wrong: nothing suggests that we need to morally subscribe to a rule in order to be able to use it (our ability to use rules does not necessarily depend on our accepting them). They do suggest, however, that a 'cold', technical reading of the internal point of view is usually accompanied by a 'warmer', more emotional reading. It is one thing to be internal to a system of concepts in the sense of being able to use them, and indeed experts have a greater ability to contextualise institutional concepts, to the point where they can 'sense' these concepts, perceiving them as 'tactile', things you can touch. It is another thing to be internal to a system of concepts in the sense of accepting the system as guide to conduct (where our acceptance of the system is evidenced by the way in which we behave in relation to it). While the data suggest an interesting correlation between these two aspects of our being internal to a system of rules or concepts (between our ability to use the system and our moral or emotional attachment to it), we do think they should be conceptually distinguished. This distinction was not discussed in Hart or in the literature on Hart, or in Searle on constitutive rules and social ontology.

Some literature has drawn similar analytic dichotomies with regard to the internal point of view. Matthew Kramer, for example, has identified a distinction between a 'genuine' internal point of view and a 'simulative' point of view. In taking the first point of view, we genuinely take the rules as reasons for action; in taking the second, we merely simulate the behaviour and critical reflective attitude usually associated with the internal point of view, thus identifying the courses of action the rules *would* require us to take *if* we wanted to follow those rules.[34] An example of the latter would be the point of view taken by a teacher of Roman law who applies ancient rules to imaginary cases just as a way of giving vivid examples to her students. This distinction is partly different from ours because on what we call the epistemic internal point of view, we need not simulate anything: the epistemic internal point of view is presupposed both in what Kramer calls the genuine internal point of view and in what he qualifies as simulative. What we would like to argue, however, is that our epistemic capacity to concretise institutional entities is cognitively intertwined with our practical attitude of seeing them as giving us genuine reasons for action. Scott Shapiro draws a distinction between a practical and a theoretical point of view,[35] identifying the former with the point of view of

[33]Gerald Postema, *Legal Philosophy in the Twentieth Century: The Common Law World*. Vol. 11 of A Treatise of Legal Philosophy and General Jurisprudence (Springer 2011) 295.
[34]Matthew H Kramer, 'Hart and the Metaphysics and Semantics of Legal Normativity' (2018) 31(4) Ratio Juris 65–68.
[35]Scott Shapiro, 'What Is the Internal Point of View?' (2006) 75(3) Fordham Law Review 1161.

those who adopt the rules as reasons for action and the latter as the perspective of those who merely wish to describe what the law is. Within the practical, he distinguishes between a genuine internal point of view and the bad man's point of view, the distinction turning on whether or not, in adopting the rules as guides to action, we also take them as normative standards in a robust sense. The theoretical point of view, on the other hand, comprises what Hart calls the moderate external and the extreme external point of view. This distinction is different from ours because it assumes that the internal point of view is only a practical matter of reasons for action. There is, instead, a whole conceptual and epistemic dimension to the internal point of view that is inherently intertwined with the practical one. The ability to take a self-reflective critical attitude hinges on a set of epistemic abilities which come down to the ability to 'see' institutional entities as concrete artefacts constituted by way of rules. Similarly, Philip Pettit's recent analysis of Hart focuses only on the practical aspect of the internal point of view.[36] Finally, Maria Cristina Redondo has distinguished between a semantic and a pragmatic conception of the internal point of view, a distinction she takes as the starting point of her 'internal legal positivism' (*positivismo jurídico interno*). Her semantic conception resembles our epistemic internal point of view, but only as a kind of theoretical, descriptive discourse, and in that sense her approach (like Shapiro's) differs from ours, since our focus is on the way the epistemic and practical elements are intertwined, and hence on the way in which the officials' capacity to concretise institutional concepts can play an important part in their use of these concepts in practice.[37]

It should be clear from this discussion that our proposed distinction between an epistemic and a practical internal point of view does not overlap with other analytic distinctions previously made in legal theory. Of course, as we have tried to show, this does not mean that these distinctions cannot be fruitfully brought into relation with one another. From a methodological point of view, however, we find it particularly interesting that our distinction was suggested by experimental data, and was thus a result of experimental jurisprudence properly so called.

4.2. Second distinction: degrees of internality vs the internal/external dichotomy

The data from the experiment we ran also bore out our second hypothesis, namely, that our conceptualising of meta-institutional concepts differs in significant ways from our conceptualising of pure institutional concepts, and especially so when we compare the conceptualising of experts with that of nonexperts. More interestingly for legal-theoretical purposes, our data suggest that the relation between the cognitive processing of pure-institutional and meta-institutional concepts can provide new insights into the specific way the internal point of view of legal experts works. In general, pure institutional concepts tend to be perceived as more concrete (scoring higher on the ABS-CNR scale and higher on the imageability, or IMG, scale) and be processed in relation to an external context (having a higher context availability, or CA, and a higher visualisability, or

[36] Philip Pettit, 'Social Norms and the Internal Point of View: An Elaboration of Hart's Genealogy of Law' (2019) 39 (2) Oxford Journal of Legal Studies 245.
[37] Maria Cristina Redondo, *Positivismo jurídico 'interno'* (Revus Series in Analytical Philosophy of Law 2018) 203.

VIS), and they also tend to have an interactive linguistic dimension (scoring higher on the mouth effector activation, or MOUTH, scale), while meta-institutional concepts tend to be perceived as more familiar (higher FAM) and be connected with a social dimension (grasping these concepts requires greater feedback and explanation on the part of other community members: social metacognition, or MESO), as well as with inner experiences (scoring higher on the inner state and metacognition, or INT and META, scales), and they also tend to elicit a positive emotional attitude (higher arousal, or ARO, and positive valence, or VAL) (see Table 2). This is coherent with our description of the relation between institutions and their meta-institutional dimension: technical, institutional concepts that concretely regulate social interaction are embedded in a broader conceptual framework that provides the social coordinates for those institutions, enabling each institution to have a purpose and social meaning and to embody values.

What is of interest to us in this connection, however, is what happens when we specify this general picture, which reveals differences depending on whether we look at it in relation to legal experts or nonexperts – and, quite surprisingly, these differences cluster around meta-institutional concepts rather than institutional ones. One would expect legal experts to be more adept than nonexperts at concretising pure institutional, technical concepts, and would *not* expect this difference to show up with *meta*-institutional concepts, that is, one would guess that experts and nonexperts alike perceive these less technically as general, abstract ideas. But what our data suggest is quite the converse, namely, that legal experts and nonexperts alike perceive pure institutional concepts as concrete (ABS-CNR), contextualisable (CA), and acquired through experience rather than through linguistic definitions (MOA), but they differ significantly when it comes to meta-institutional concepts: legal experts rate meta-institutional concepts as more concrete, contextualisable, and connected with experience than non-experts. The epistemic internal point of view as we defined it – the capacity of legal experts to adopt and use a system of institutional concepts – therefore seems to have to do less with a perception of concreteness of legal institutions considered formally as *in vitro* entities, and more with a strong understanding of the way these institutions embody and concretise broader social notions and values. Legal experts anchor the abstractness of general normative notions to the concreteness of more specific, technical regulations of them. This suggests a further analytic distinction that may be useful for an analysis of the internal point of view: the distinction between an internal and an external point of view could more usefully be described not as a clear-cut dichotomy but as a matter of degrees of internality, depending on the extent to which the actual, rule-constituted institutions one refers to are perceived as embedded in their conceptual and axiological background, namely, as specifying a deeper, more familiar, and internalised system of social coordinates.[38]

Legal experts pair their capacity to concretise the meta-institutional background with an emotional attachment to both institutional and meta-institutional concepts (VAL): this can be taken as a feature of the practical internal point of view, as defined above, and seems to support the idea that a feature of the internal point of view consists in seeing institutions as having social significance. Nonexperts, too, perceive broad social

[38]On the idea of 'degrees of internality' with regard to the internal point of view, see also Corrado Roversi, 'Constitutive Rules and the Internal Point of View' (2018) 4 Argumenta: Journal of Analytic Philosophy 139–56.

notions like validity, justice, rights, and duty as emotionally arousing in a positive way, though their rating was lower than the experts'. However, nonexperts perceive pure institutional concepts as negatively arousing – as if they amounted to a cold, technical, often disabling machinery connected with authoritative dictates – whereas legal experts showed a higher degree of positive emotional arousal with both meta-institutional and pure institutional notions, as if they conceived these two things not as distinct but as connected, the latter specifying the former. Hence, being internal in the practical sense could be a matter of accepting not simply the institutional framework as such, or general ideals in the abstract, but more specifically the way in which the institutional framework realises these general ideals.

In Section 2.2, we mentioned Stephen Finlay and David Plunkett's quasi-expressivist approach to the meaning of statements of legal validity.[39] On this approach, if a statement like 'It is the law that … ' is uttered as an internal statement, it *semantically* expresses as its meaning a given rule's specific relation to the rule of recognition, and it *pragmatically* expresses the utterer's acceptance of the latter rule. We tried to connect this approach more generally to Searle's theory of institutional facts: the idea was that, when stating an institutional fact like 'Mr. Mattarella is the President of the Italian Republic' as an internal statement of fact, we mean that this statement stands in a specific relation with the rules of Italian Constitutional law, and at the same time we express our acceptance of the Italian Constitutional system.

Now, in light of our data and of the foregoing discussion, this view can be further specified. In uttering, from an internal point of view, a statement containing an institutional concept, we are not simply expressing our acceptance of the institution: we are also grounding this acceptance by relating the institution to its social (teleological and axiological) background. The semantic aspect of internal statements of law are defined by Finlay and Plunkett as 'rule-relational', because these statements mean a rule's relation to the rule of recognition, and we can extend this label to internal statements about institutional facts, because they mean a fact's relation to a given set of institutional constitutive rules. On the basis of our data we conjecture as well that the pragmatic aspect of internal statements about institutional facts can also be conceived of as 'context-relational'. An internal statement is thus relational in two respects: it means a relation to the relevant institutional rules, and it expresses acceptance of a given meta-institutional, social background. The use of internal statements of law involving meta-institutional concepts would, in this perspective, be pragmatically connected to acceptance of the relevant institutional framework in relation to its broader social purpose and inherent values as expressed by way of meta-institutional concepts. Having an internal point of view in its deeper sense would entail a permanent disposition to trace the technical concepts to their functional role and axiological justification. This does not entail a strong cognitivist conception of the relevant axiological and teleological background, so it does not entail a nonpositivist conception of law: tracing the use of institutional concepts to their meta-institutional context does not entail that that context is ultimately grounded. Rather, this proposal simply specifies a positivist view

[39]Stanley Finlay and David Plunkett, 'Quasi-Expressivism about Statements of Law: A Hartian Theory' in John Gardner, Leslie Green, and Brian Leiter (eds), *Oxford Studies in Legal Philosophy* (Oxford University Press 2018).

by connecting the internal point of view to a given, contingent social system of conceptual coordinates, some of which are value-laden and functionally oriented.

5. Conclusion

We now have several elements for a better understanding of law's Wonderland. In law's Wonderland, people see normative entities as concrete objects, which can be looked at and touched. When they see these objects, they even get emotional, because they perceive these objects as precious tools that can be used to put their values into practice. Law's Wonderland is not a heaven of rule-constituted concepts that can be used and analysed *in vitro*, apart from their broader social rationale. Rather, it is a way to concretise broader ideas and ideals and put them into effect. Alice should not believe false things without a reason, and the White Queen is weird, but not completely irrational.

By way of conclusion, we will discuss three possible objections that can be raised against our approach.[40] The first objection is methodological. We wanted to test whether there are differences between the cognitive dimensions of institutional concepts perceived to be relevant by law students and the same cognitive dimensions as perceived by people who have no legal background, and we used these data as evidence that, as Hart suggests, the officials' point of view differs from that ordinary citizens. The question, then, could be: why should law students count as officials? Shouldn't we have tested legal practitioners, actual officials, members of the judiciary? We decided to take law students as experimental subjects because we are investigating legal concepts, and it seemed safe to assume that the typical place where legal concepts are acquired is law schools. If we had included actual legal practitioners and officials, looking at them in comparison with ordinary people of a comparable age, we might not have obtained the clean snapshot we were looking for – namely, a picture of how concepts are acquitted through rules – but might have had noise in the data, reflecting factors such as an abiding allegiance to or disillusionment with real-life institutions, variations in the use of concepts depending on context, and generally the rethinking of concepts and institutions that comes with age and experience. In comparing law students with other kinds of students, we hoped to get a snapshot of the conceptual practice connected with an internal point of view at its inception. That said, we think an important development of this line of research could indeed consist in expanding the experimental protocol. Comparing data diachronically could help us investigate whether the relevant cognitive dimensions connected with the use of institutional concepts vary over time, shifting from a more abstract conceptualisation of law students to a more practical and less theoretical experience of practitioners and officials.

Another, broader methodological concern that could be raised against our approach is that we did not specify in advance the way in which we went about finding

[40] On pleasure/reward mechanisms in connection with food. We are extremely thankful to anonymous reviewers of this journal for raising these important points, thus making it possible to better explain the methodological assumptions behing this study. We will not consider general challenges to the embodied cognition paradigm as direct challenges to our argument, because we think that arguments of this kind can be levelled at most experimental paradigms. But see Alexander Skulmowski and Günter Daniel Rey, 'Embodied Learning: Introducing a Taxonomy Based on Bodily Engagement and Task Integration' Cognitive Research: Principles and Implications (2018) 3(1); Markus Ostarek and Falk Huettig, 'Six Challenges for Embodiment Research' (2019) 28(6) Current Directions in Psychological Science 593–99.

footprints of the internal point of view in the rated dimensions: we did not predict which cognitive dimensions would differ, and the method was thus arbitrary. In a sense, one could object, we interpreted the data to a significant extent *ex post*, rather than specifying the hypothesis from the outset. Our reply is twofold. First, our hypothesis was that in the rated dimensions, significant differences would emerge between experts and nonexperts, and that these differences depend on how deeply, from the point of view of embodied cognition, respondents in the two groups commit to a conceptual practice and to its underlying rules. These different degrees of commitment that experts and nonexperts have are what the data points to for dimensions CA, FAM, AoA, TOU, and VAL, and there is nothing arbitrary about identifying those dimensions, particularly as gauges of commitment. On this interpretation, the shift to an internal point of view entails a more concrete, familiar, and emotionally laden perception of institutional entities. Legal experts have a more direct experience with institutions, and what the literature on embodied cognition suggests is that we could therefore legitimately expect them to attribute higher ratings to the sensorimotor and affective dimensions of institutional concepts than to their linguistic and social dimensions. In fact, the less a concept is conceived as abstract (i.e., the more it is processed through a direct sensorimotor, embodied experience of its referent), the less the subject will need to rely on social and linguistic dimensions to process it. Second, with regard to the distinction between pure institutional and meta-institutional concepts, we conjectured that to have an internal point of view properly speaking means to appraise institutions in the context of their broader social rationale, and this conjecture provides both an explanation of the data and a deeper understanding of a traditional notion in legal theory. We must concede that, although our thesis about the internal point of view fits and explains the data, this is not the only possible thesis, as is the case with most theses in conceptual analysis. Unlike standard armchair conceptual analysis, however, our argument is based not on the conceptual intuitions of one single philosopher but on experimental, statistically significant data about the conceptual intuitions of a relevant group of people. This is why we believe that our approach fits well within the methodological paradigm of experimental philosophy.

A third, possible objection is the following. We have assumed that when someone gives a high rating to positive evaluation (VAL), this can be taken as a sign that they have adopted a practical internal point of view, that is, they have accepted the institution, along with its meta-institutional background, and have an actual commitment to it. One could object, however, that these positive evaluations are simply an outcome of cognitive fluency, namely, of an epistemic ability to know what the concepts are for and to apply them. In this sense, high VAL would be connected not with the practical but only with the epistemic internal point of view: it is arbitrary to connect VAL with what Hart had in mind when speaking of adopting a rule from an internal point of view. Our reply to this objection is that cognitive fluency certainly plays a role in explaining high VAL in experts, but there is more than that. To see that, it is useful to compare institutional concepts with the other kinds of concepts we considered. It seems safe to assume that both legal experts and nonexperts are cognitively fluent with concepts of standard artifacts like hammer, knife, or spoon. And indeed both groups show similar VAL towards them. They also show similar

VAL with food concepts. With food, however, experts and nonexperts alike respond with higher VAL than with artifacts: food is not just something we are very much familiar with; it is something to which we attach a positive value because it is necessary for our survival.[41] Now, experts attach equal VAL to institutional and food concepts, but higher VAL to institutional than to artifact concepts. If the emotional valence that legal experts attach to institutional concepts were simply a measure of their cognitive fluency, we would expect that fluency to be greater than with artifact concepts. Instead, it turns out that legal experts display towards institutional concepts the same level of attachment that they display towards objects that are not merely known and useful, but also essential to life. For this reason, we think that our data is evidence that the experts' internal point of view is not just epistemic but also, and primarily, practical. Note, however, that even if VAL were connected only with cognitive fluency, our data would still reveal a nontrivial aspect of the epistemic internal point of view, namely, that it has a distinctively coherentist mould. Experts show higher VAL than laypeople both for pure institutional and meta-institutional concepts, and unlike laypeople they have similar VAL ratings for both. This means that an important part of the experts' internal point of view lies in the broad scope of their cognitive fluency, which encompasses both the legal system's technical concepts and the way the same experts understand these concepts' meta-institutional, social background. On this reading, even if high emotional valence for institutional concepts in experts were only an outcome of cognitive fluency, our data would show that this fluency comes with an increased sense of coherence of the overall conceptual system in its broader social context. This conclusion would still shed new light on the concept of the internal point of view, by showing how even only its epistemic aspect can engender emotional investment in officials, an emotional attachment owed to a greater sense of the coherence between legal institutions and their social context.

Though the objection about how to interpret VAL does not undermine the significance of our approach, it opens a new, interesting perspective. If VAL is also to be considered as the outcome of an epistemic capacity, then experts in areas other than the law – in STEM disciplines, for example – should exhibit high VAL ratings with the concepts they ordinarily deal with in their disciplines. Of course, mathematicians or physicists do not in a *practical* sense commit to or accept their disciplines' systems of concepts, because these endeavours are descriptive and not practical, but they can be said to take an *epistemic* internal point of view to those concepts, in that they know how to apply and contextualise them. This means that the internal point of view – or at least its epistemic aspect – can be extended to all domains where there is a system of rule-constituted concepts, and this conclusion in turn opens a further fruitful question for experimental research along the lines set out in this paper: how does the jurists' epistemic internal point of view compare cognitively with that of other kind of experts, and particularly scientists? Through such a comparison, which we are planning to make in the future, we might be able to glean, *per differentiam*, as it were, further insights into the

[41]See also Francesco Foroni and others 'The FoodCast Research Image Database (FRIDa)' (2013) 7 Frontiers in Human Neuroscience 1–19, on ratings of food concepts; see also Jing Chen and others, 'A Core Eating Network and its Modulations Underlie Diverse Eating Phenomena' (2016) 110 Brain and Cognition 20–42. On pleasure/reward mechanisms in connection with food.

legal internal point of view. After all, there is no reason to suppose that the law's Wonderland is the only existing Wonderland.

Disclosure statement

No potential conflict of interest was reported by the author(s).

Funding

This research was co-funded by the Erasmus+ Programme of the European Union under the project number 2020-1-IT02-KA203-079834. The European Commission's support does not constitute an endorsement of the contents of this publication, which reflects the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.

Ethical approval

The local ethics committee at the University of Bologna approved the study (Minutes of the Bioethics Committee Prot. n. 0232963 del 02/10/2019 – [UOR: SI017107 – Classif. III/13]) and it was therefore performed in accordance with the ethical standards laid down in the 1964 Declaration of Helsinki and its later amendments.

Informed consent

Informed consent was obtained from all individual participants included in the study.