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Institutional virtue: how consensus matters

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Abstract The paper defends the thesis that institutional virtue is properly modeled as a “consensual” property, along the lines of the Lehrer–Wagner model of consensus (LWC). In a first step, I argue that institutional virtue is not exhausted by duty-fulfilling, since institutions, contrary to natural individuals, are designed to fulfill duties. To avoid the charge of vacuity, virtue, if attributed to institutions, must be able to motivate supererogatory action. In a second step, I argue against discontinuity of institutional virtue with individual virtue. Two main arguments for discontinuity of collective properties display serious shortcomings when applied to virtues of institutions. Given that motivation for supererogatory action is neither inferred from statutory duties nor accommodates a right of reprobation, modeling institutional virtue on collective rationality or explaining it in terms of joint commitment both prove problematic. In a third step, I argue that LWC has the explanatory potential to account for institutional virtue. Due to its main features, iteration and evaluation, it provides a non-trivial analysis of continuity and thereby satisfies basic constraints on the notion of genuine institutional virtue.

Keywords Consensus · (Dis)continuity · Evaluation · Institutional virtue · Supererogatory action

It has been argued that “it is sometimes possible and reasonable to ascribe virtues to collectives” and that this practice might help to deal with the situationist challenge in virtue ethics (Sandin 2007, p. 303). More specifically, it has been argued that attributing virtues such as “testimonial justice” to institutional groups can account for a society’s legitimacy and freedom (Fricker 2010, p. 250f). And it has even been

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suggested that corporations, in virtue of their constitution, “will probably prove more capable of consistent and dependable ethical behaviour than humans” (French 1995, p. 80). Advocates of the existence of institutional virtue univocally claim that an institution G’s virtue V must be accounted for in terms of a property that is not necessarily continuous with a property V of G’s individual members. Fricker argues that a “non-summative account” is needed to model collective virtue, and she takes it that “the model given by Gilbert in her classic notion of a ‘plural subject’ [...] provides an excellent template for our thinking about group virtue” (Fricker 2010, p. 240). Referring to French’s characterization of institutions as “conglomerate collectivities” whose “identity is not exhausted by the identities” of their individual members, Sandin takes “conglomerates” to be the suitable “candidates for ascriptions of collective virtue” (Sandin 2007, p. 305). He thereby suggests that collective virtues are not distributions of individual virtues.¹

Thinking about manifestations of institutional virtue, the recent example of the Fukushima fire brigade’s bravery comes to our mind. It seems that even skeptics of the idea of institutional virtue cannot but accept that attribution of bravery to the brigade is the right kind of qualifying its behavior. Granted some convenience of attributing virtues to collectives, particularly to institutional groups, the present paper aims at elucidating the question to what extent collectivist accounts can satisfy the requirements of virtue ascriptions to institutions. Contrary to distributive or aggregate accounts, collectivist accounts defend the view that the properties of collectives are discontinuous with the properties of their individual members. On the grounds of the moral role that virtues play in motivating an agent’s course of action I will first argue that an institution’s genuine virtues cannot be discontinuous with the individual virtues of its members. Then I will show how the Lehrer–Wagner account of consensus (LWC) models collective properties that are non-trivially continuous with individual properties. In the third section of the paper I will argue that the relevant requirements an account of institutional virtues must meet are all satisfied by LWC. I conclude that we might indeed have good reasons to attribute virtues to institutions, provided we model them in terms of “consensual” properties.

1 The problem of institutional virtue

In her 2010 paper *Can There Be Institutional Virtues?* Fricker develops an account of collective virtues on the basis of Gilbert’s model of “Plural Subjects”. Fricker’s central claim is that institutions can be literally attributed virtues, notwithstanding whether they are conceived of in terms of genuine individuals (irreducible unit), clusters of individuals (reducible unit), or institutional structure (formal, procedural features). Moreover, Fricker claims that her account is not dependent on some specific view on virtues, i.e. accommodates virtues conceived both in terms of motivational character traits and in terms of skills. Given that the first of these

¹ The central point of Sandin’s argument for collective virtue is the relative stableness of institutions that makes them likely bearers of enduring character traits (*op. cit.*, 306).

conjuncts is the more controversial issue, I will henceforth consider the question of attributing virtues to collectives as the question of whether and how morally relevant motivational attitudes might be attributed to collectives. I will follow Fricker in focusing on “institutional virtues”, i.e. virtues attributed to social entities which display a normative structure, realized in statutory duties, status roles, and rules of conduct. But contrary to Fricker and other authors, I believe that the nature of institutions rather challenges than favors attributions of genuine virtues. The difficulty, I think, resides in the fact that institutions, contrary to individual persons, are instrumental units, designed to fulfill the tasks they are created for. If being virtuous is identified with the motivation to reliably fulfilling one’s task, institutional virtue seems to be a rather flat concept. Following directly from its existence, an institution’s motivation to fulfill the tasks it is designed for is constitutive of it. Lacking this “virtue”, an institution would miss its “raison d’être” and thereby call into question its very existence, while having it does not seem to add anything to being an institution. It therefore seems as if a philosophical problem related to virtue and institutions arises only if virtue is not identified with fulfilling statutory duties. The crucial question then is whether institutions are capable of supererogatory action. In this case, there is a need for institutions to have virtues of a more substantial kind, i.e. properties motivating institutions to act beyond what they are designed for. It is arguable, however, whether institutional virtues of this kind are explicable in terms of properties discontinuous (or only contingently continuous) with motivational attitudes of the institution’s individual members.

As an example of institutional vice and virtue, Fricker mentions the case of “non-individual-based” racism in a police unit, to which corresponds the unit’s correlative lack of the virtue of “testimonial justice” (Fricker 2010, p. 251). The case is intended to show how the presence and absence of institutional vices and virtues impinge on a society’s legitimacy and freedom. Fricker thereby refers to the “contestability condition”, constitutive of Pettit’s characterization of freedom as security against arbitrary interference: “What is required for non-arbitrariness in the exercise of a certain power is [...] the permanent possibility of effectively contesting it” (Pettit 1997, p. 63). To secure this possibility, institutions such as appointment panels, courts, or police forces are required to display the virtue of testimonial justice, and this in turn requires their members to “jointly commit to neutralizing prejudice” when they judge the credibility of a contestor’s voice (Fricker 2010, p. 250). In contrast, institutional prejudice, e.g. tacit racism, is considered an institutional vice that will deflate credibility and thereby annul contestability.

One principal worry about this view on institutional virtue and vice concerns the possibility of jointly committing to being virtuous. Unquestionably, we can jointly commit to ways of behavior, for example to applying certain prescriptions and thus satisfying the statutory or legal requirements of the institution we are members of. It is arguable, however, whether we can jointly commit to having attitudinal properties, viz. character traits. I will not enter into a discussion of this issue here, but it is worth being kept in mind, since the possibility of doing things for different reasons and out of different motives hinges on it, and this possibility imports on ascriptions of virtue. A more relevant question in the present context is whether

fulfilling statutory requirements shall count as virtuous act. The requirement of neutralizing prejudice, i.e. the criterion for the police unit manifesting the virtue of testimonial justice in Fricker's example, belongs to (or directly follows from) the statutory requirements for institutions with judicative and executive tasks (at least in democratic societies). A court whose members do not regard it as their statutory duty to neutralize prejudice would count as disqualified from the outset. Consequently, if the court members jointly commit to neutralizing prejudice, they commit to satisfying a statutory requirement of the institution they constitute.

The answer to the question of whether fulfilling a statutory requirement is a virtuous act seems to depend on the moral theory one adopts. In duty based ethics, being virtuous boils down to fulfilling one's duties. The same applies to utilitarian ethics. Given that the supreme value of maximal welfare defines the moral obligation to pursue this goal in the best possible way, virtue is exhausted by satisfying this requirement. Identifying virtue with fulfilling duties is of value when morals concern natural individuals, since duty-fulfilling is an achievement of individuals that reaches beyond the mere satisfaction of what their nature requires. Their existence not being dependent on or exhausted by fulfilling duties, individuals' duty-fulfilling constitutes a value for which they deserve moral praise. In contrast, institutions are, by their nature, duty related entities. Their existence is bound to a specific goal from which they derive their statutory duties, and their *raison d'être* is exhausted by their fulfilling these duties. While one properly expects an institution to reliably fulfill the task it is created for, nobody expects more than that. Hence, if virtue is identified with duty-fulfilling, attributing virtue to institutions does not seem to have the same moral significance as attributing virtue to individuals.

Given that duties can be fulfilled for different kinds of reasons, and even vicious persons can reliably fulfill many of their duties, virtue ethics claims that being virtuous is not exhausted by duty-fulfilling. Virtues (vices) are usually considered as stable character traits motivating an agent to act in a specific way, given certain circumstances. Virtue ethicists distinguish between actions which are "in accordance with virtue without requiring virtue for their performance" (Foot 2002, p. 13) and actions which are "both in accordance with virtue and such as to show possession of a virtue" (*ibid.*). The distinction suggests a weak and a strong sense of being virtuous. In the weak sense, an action is virtuous if it conforms to virtue without necessarily following from it. In the strong sense, an action is virtuous if it follows from virtue. Conforming to virtue without necessarily witnessing virtue, duty-fulfilling exemplifies actions which are virtuous in the weak sense. Duty-fulfilling is a necessary but not a sufficient condition for a person to be virtuous.

Consequently, the minimal requirement for institutions to be virtuous is their fulfilling their duties for the right motive. But how can we tell simple fulfillment of institutional duties from their rightly motivated fulfillment? When can a court fulfilling its duty to neutralize prejudice be characterized as "showing possession" of the virtue of testimonial justice? Is an institution's virtue a function of its fulfilling its duties in a more or less efficient, or in a more or less dutiful manner? If so, virtue seems to reduce to skillfulness in executing duties, and we are back to square one. If performing the task an institution has been created for is by itself genuinely virtuous, any institutional well-functioning is virtuous by definition, i.e.

the conception of institutional virtue is vacuous. Ascribing virtues to institutions seems to commit us to a more substantial conception of virtue, one that accommodates the claim that institutions can act in ways that reach beyond the call of their duties.

If this is on the right lines, the challenge is how to account for an institution's property of supererogatory action. The basic constraints on relevant, i.e. praiseworthy, supererogatory action are mainly agent-based. To be supererogatory in the ethically relevant sense an action must be performed willfully for the good of it, without being an action the agent is due to perform. In other terms, the supererogatory is neither a result of chance nor is it coextensive with the permissible; moreover, the motivation for acting in the relevant way must not stem from the agent's sense of duty, or from his desire to increase his happiness. Insofar, supererogatory action must be motivated by virtue without being motivated by the desire to be virtuous. Traditional virtue ethics has it that the virtues giving rise to supererogatory action are a person's complex acquired character traits, shaped and cultivated throughout her existence in various social and normative relations.

Accordingly, attributing substantial virtuous agency to institutions commits us to account for the complex intentional network, i.e. the virtues, conditioning the property of supererogatory action. In moral contexts, the most important feature a theory of institutional properties has to account for is the question of continuity with individual members' properties. Does an institution G possessing the morally relevant property F imply that the members of G possess F? In recent discussion on collective intentional and morally relevant properties, advocates of non-continuity argue either by reason of constitutive impossibility, or by reason of normativity. Constitutive impossibility of continuity pertains to group properties resulting from inferential procedures in settings of a certain complexity. The so called "discursive dilemma" is generated in configurations of three or more agents who have to decide an issue on the basis of two or more premises. The dilemma consists in the fact that for the group two different, equally valid decisions are possible, depending on whether the decision is premise based or conclusion based. While the conclusion based procedure infers the group decision from the conclusions of the individual inferences, the premise based procedure infers it from the stance the individuals take on each of the premises. The latter procedure is more rational for the group to take, but it is discontinuous with the individual members' rationality. The dilemma resides in the combinatorics of inferential procedures and is, in settings such as the described, irresolvable.²

It does not seem very promising, however, to model institutional virtue on the discursive dilemma script. Readiness to act beyond the call of duty is not a matter of voting or inferring a conclusion from two or more premises. Rather, it is a situational evaluation, based on the *prima facie* evidence of desires, emotions and perception, which provide the motivational force to act. Moreover, nothing in an institution's acting beyond the call of duty—provided such a thing is possible—implies that continuity in such a case is structurally impossible. To the contrary, if the Fukushima fire brigade is praised for being brave in the face of the exceptional

² For a recent overview on the arguments for constitutive discontinuity see List (2010).

danger of radioactive contamination, not only do we represent bravery in the figure of the individual fire fighter, but, and this is more important, without individuals being willing to go beyond the call of duty the brigade's brave action would simply not be performed. It seems vain to invoke "practical identities" or "roles" for such cases, claiming that the brave brigade may very well consist of coward individuals being brave only to the extent of "wearing the hat" of fire brigade membership. Considering the possibility of supererogatory action is considering sources of action that are precisely not captured by role models, status functions or group identities, but point to traits of individual personality.

The other prominent argument given to support discontinuity of group properties draws on the observation that collective acting involves specific kinds of normativity, particularly the entitlement to rebuke any participant for not concurring, as well as its correlate obligation to promote the fulfillment of the common goal as well as possible. Gilbert suggests that this normativity responds to the presence of a "joint commitment", an act by which individuals together openly declare their willingness for doing or being F "as a body", i.e. to form the "plural subject" of F (Gilbert 1997). Non-continuity is a main criterion of this account, which states that the plural subject's doing or being F is compatible with lack of the corresponding personal doings or beings F, and that personal intentions are not relevant for the plural subject's doing F. Granting that joint commitment has the power of generating genuine plural properties—among them even attitudinal properties such as beliefs and emotions—there is still doubt whether it can explain institutional virtue. The problem lies in the strong normative constraint of Gilbert's "joint commitment", which strictly prohibits unilateral rescinding and reveals itself in the inalienable entitlement to rebuke any member for not complying. If virtuous acting of institutions goes beyond the call of statutory duties, it seems to exclude the possibility of manifesting a virtue that is enacted by a commitment entailing reprobation in case of not complying. Whereas it might be arguable whether fulfilling one's duties in normal circumstances deserves moral praise, there is general consensus that not going beyond one's duties does not deserve blame. If attributing virtues to institutions implies attributing supererogatory action, then it implies attributing ways of acting for the non-performance of which one is not to be blamed. Therefore, institutional virtue seems not likely to be explained on the model of joint commitment, which is based on being blamable in case of not complying with the properties enacted by joint commitments.

When applied to institutional virtue, both strategies that explain collective properties as discontinuous with individual properties exhibit serious shortcomings. The resistance to discontinuity explanations at least suggests that an institution's readiness for supererogatory action and, a fortiori, its virtues, are continuous with individual properties. Yet distributive interpretations of collective properties have been repeatedly criticized for not sufficiently explaining the specific nature of the collective. This might be true if distributive accounts are understood in terms of mere summative analysis, i.e. as the view that group G 's property V_G is the collection or set of the property tropes $V_{M(G)}$ of G 's individual members $M(G)$ (Fricker 2010, p. 236f). It need not be true, however, if more sophisticated accounts of distribution are taken into consideration, accounts that explain the specificity of the collective property without abandoning continuity. A perspicuous

account of this kind of distribution is the model of consensus developed in the 1970s by Keith Lehrer and Carl Wagner. Modeling genuine institutional virtue as a converging “consensual” property, along the lines of the Lehrer–Wagner account of consensus (LWC), seems a promising way to satisfy the requirements imposed by the notion of institutional virtue.

2 LWC: the Lehrer–Wagner model of consensus

In order to appreciate the value of LWC for the analysis of genuine institutional virtue, it is important to recap the requirements this kind of property has to satisfy. First, the institutional property V_G needs to be such that individual property instances $V_{M(G)}$ integrate with it (*continuity* claim). Second, in order to deliver supererogatory action readiness, the property needs to display intentionality and genuine motivational power (*motivation* claim). Third, in order to suitably qualify its bearer, the property needs to display persistence (*character* claim). Finally, in order to smoothly adapt to diverse situations, the property needs a dynamic structure (*adaptation* claim). How does the LWC satisfy the complex of these requirements?

The roots of the LWC reach to the paper “Social consensus and rational agnology” (Lehrer 1975) where Lehrer attempts to explain group consensus. Wagner, later Lehrer’s co-author, comments the challenge such an explanation meets:

In practice, group consensus typically emerges from an unstructured discussion in which individuals modify their initial opinions on the basis of a complex set of considerations. Such discussion will involve exchange not only of indisputable facts and inferences, but also of interpretations, intuitions, and guesses which cannot be supported by rigorous logical or statistical arguments. (...) Here, attention does (and should) shift from a consideration of the data to an evaluation of the individual who advocates its cogency. (...) Thus it is of particular interest to develop systematic theories of group decision-making in which the respect accorded members of the group by each other plays an explicit role in the achievement of consensus (Wagner 1978, p. 336).

This outline neatly suggests how consensus theory overlaps with the requirements of an account of institutional virtue. Emphasizing the fact that consensus typically does not accrue from strictly inferential procedures, it concurs with the aforementioned observations on collective inferences and the “discursive dilemma”. While collective inferences, on principles of majority and rationality, lead to commonly accepting the option deemed to be of superior value, they cannot exclude that opposite opinions prevail in individual members. Discontinuity being their implicit feature, collective inferences will not deliver consensus, i.e. a “common” or “shared” view on an issue that emerges from aligning different opinions.³ Yet, the reason given here for not reaching group consensus by means of

³ The result of collective inference can be spelled out in terms of a compromise between different beliefs, while consensus results from belief revision (see Hartmann et al. 2009 for details on this distinction).

strictly inferential procedures is rather the complexity of issues, calling for “interpretations, intuitions, and guesses”. Now these are precisely the kinds of evaluations an account of substantial institutional virtue must appeal to in order to explain what motivates institutions to act beyond the call of duty. Motives for supererogatory action cannot be inferred from statutory duties, but rather arise from converging evaluations from which consent to a way of acting flows. Mutual evaluations of the individuals involved play a decisive role. As Lehrer emphasizes from the start, consensus theory needs to accommodate not only all individual assessments of the issue at stake, but also the mutual assignments of trustworthiness and competence. Accordingly, a crucial element of the consensus theory is to account for the weight of “respect” each consensus candidate assigns to each other candidate. The interest of consensus theory to systematically integrate mutual assessments of personal weights perfectly aligns with the explanatory requirements of institutional virtue claims. If anything such as an institution’s supererogatory action can obtain, it is hardly explicable in terms of a commonly accepted opinion on the appropriate way of acting a situation calls for. An institution will not be ready to engage in virtuous acting unless the individual members assess each other’s reliability with regard to the achievement of the envisaged action.

The above outline of some tenets of consensus theory indicates that its desiderata overlap the requirements of an account of institutional virtue. This corroborates the conjecture that genuine institutional virtue, if it exists, is a “consensual” phenomenon, i.e. a convergent property aggregating from individual properties, modellable on LWC. For the following summary of LWC, I will skip its refinement throughout a set of publications (most prominently Lehrer and Wagner 1980), and exclusively draw on Lehrer’s use of the model in his paper “Individualism, Communitarianism and Consensus” (Lehrer 2001). The main focus will be on whether and how LWC satisfies the basic claims of an account of genuine institutional virtues, i.e. the continuity claim, the motivation claim, the character claim and the adaptation claim.

A relevant feature of LWC is to show how agents’ mutually assigning weight to each other in an iterative process impinges on their reaching consensus. In the example given in Lehrer (2001), the issue is the distribution of a certain sum of money to two different charities on which George and Mary need to consent, and it is assumed that the weight they assign to each other is held constant throughout the process, although it is “for them to decide in each state” (op.cit., 114). Generalizing from this example, Lehrer suggests the following formula of a consensual property,

$$A_j^{s+1} = A_1^s w_{j1}^s + A_2^s w_{j2}^s + \dots + A_n^s w_{jn}^s$$

where ‘A’ stands for an aggregate allocation (the consensual issue), and ‘w’ for the weight assigned to agents. Subscripts i, j, k mark individual agents, and superscripts s mark states or rounds of aggregation (op.cit., 116, 113). LWC models the iterative structure of consensual properties, i.e. the fact that consensus results from repeated rounds of mutually assigning weight to each other with regard to deciding on the issue at stake. Thus, the consensual property A of iteration $s + 1$ is a *convergent* aggregate property, distributed on each person, j , and as such the “amalgam” of n

products of individual allocation and mutual weight assignments in the precedent iteration s . The relevant constraint is that the sum of the weights w_j^s assigned by each person, j , to each person including herself equals 1. Then, in each loop of iteration, each weight w_{jk}^s is factored into new aggregates of individual allocations A_j^{s+1} , so that the latter become more and more “encumbered” by every agent’s appraisals. Being an “amalgam” rather than a sum of individual opinions, the aggregate consensual property A_j^{s+1} qualifies as both “individual allocation” and “communal norm” (*ibid.*). Given the iteration matrix of mutual weight attribution, the dynamic model of consensual properties makes it pointless to consider an allocation A_j^{s+1} as either an individual or a collective state: “The individual allocations and the communal allocations are identical and symmetrical” (op.cit., 115).

3 LWC: modeling institutional virtue

LWC’s main tenets indicate how individual properties integrate with a genuinely plural property in a way that preserves continuity without making it trivial. Continuity between individual and collective allocation is enabled and guaranteed by (i) factoring weight assignments with individual allocations, and (ii) iterating the sums of these products. Hence, explaining institutional virtue in terms of a consensual property V_j^{s+1} satisfies the *continuity* constraint without falling prey to the objections against summativism. The second constraint on substantial institutional virtue is intended to exclude contingent results from the domain of virtuous achievement. In order to satisfy this *motivation* constraint, the property responsible for the virtuous achievement must exhibit evaluative intentionality, prone to generate action-relevant motives. Evaluative intentionality involves recognition of a situation’s action-relevant values and triggers willfulness to engage in ways of acting that manifest regard for the values recognized. Being designed to account for aggregating intentional attitudes such as opinions and beliefs, LWC by definition satisfies the intentionality constraint. Moreover, LWC essentially involves evaluative intentionality, both with regard to the issue at stake and with regard to the individual agents involved. Even if LWC does not require the process of convergence to be conscious and intentional on all levels, the model at least suggests that the consensus reached is an intentional property. The third constraint on institutional virtue is what I called the *character* claim, i.e. the claim that in order to count as a virtue the property assigned to the institution must exhibit persistence over time, as well as a certain malleability by which it is distinct from simple dispositions. Unlike natural dispositions such as a glass’ fragility which, given some definable conditions, unavoidably manifests in the glass’ cracking, a virtue is an acquired potential whose conditions of manifestation and ways of becoming manifest are flexible. Moreover, virtues are self-enhancing potentials, i.e. their manifestation usually strengthens their inherent motivating power. To claim possession of this kind of property for institutions calls for a dynamic account, able to explain how the property is developing through time. Modeling a process-dependent property based on iterating assessment aggregation, LWC seems fit to

satisfy not only the character constraint but also the *adaptation* claim. The structure of LWC guarantees the malleability of virtues to adapt to unexpected situations, by accommodating reevaluations of issues and participants, as well as changes in the cast of institutional roles.

Attributing genuine bravery to the Fukushima fire brigade seems adequate if the following holds: In iterated activities of commonly fulfilling their statutory duties, each member of the brigade continually assigns weights of trustworthiness and reliability to each other. The products of the individual firefighters' more or less brave performances and the reliability weight mutually assigned to each other aggregate and converge by iteration to a property V that characterizes the brigade. V is not a statutory property of the brigade, not something it can establish in its constitution, or jointly commit to having. Rather, V exemplifies the brigade's biography including the relevance of individual performance and character. Those joining the brigade might have very different motives for their engagement in firefighting, and not all of them may estimate the motives of the others very highly. Mutually weighing each other need not concern the "ideological" value of individual motives, but focuses the extent to which individuals are trustworthy partners in firefighting. Being enhanced in the course of the brigade's existence and performances, V acquires a potential that exceeds the capacity to reliably fulfilling statutory duties. In the face of an extraordinary challenge, V can motivate the brigade to go beyond the call of duty. Due to its core features, iteration and mutual weight assignment, LWC accommodates institutional virtues' sensitivity to extraordinary circumstances, as well as their dependence on individual character and performance.

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