

PHENOMENOLOGICAL ONTOLOGY IN THE WORK OF HERBERT SPIEGELBERG

Ideas and (ontic and deontic) states of affairs

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TRANSLATORS' INTRODUCTION

The present contribution is a translation of an article by Karl Schuhmann originally written in German with the title "Idee, Sachverhalt und Sollverhalt. Die Ontologie Herbert Spiegelbergs." According to the comprehensive bibliography of Schuhmann's works in the appendix to his *Selected Papers on Phenomenology*,¹ edited by Piet Steenbakkers and Cees Leijenhorst, this manuscript was originally meant as a contribution to a *Festschrift* for Eberhard Avé-Lallemant, to be edited by Hans Rainer Sepp.² However, it did not appear there and has remained unpublished up to now.

The present translation also has had some difficulties getting published. It was at first prepared and intended for the volume *The Reception of Husserlian Phenomenology in North America*.³ This collection was originally envisioned as consisting of two volumes, and the translation was announced in my contribution on Herbert Spiegelberg to the first volume as to appear in the second volume. My article on Spiegelberg itself was explicitly meant and introduced "as a companion piece to the translation of Karl Schuhmann's unpublished article 'Phenomenological Ontology in the Work of Herbert Spiegelberg: Ideas and Ontic and Deontic States of Affairs' which will appear in the second volume." The plans to publish a second volume, however, were then abandoned.

1 Leijenhorst and Steenbakkers, *Karl Schuhmann: Selected Papers on Phenomenology*, 364.

2 The volume has appeared as Gottstein and Reiner Sepp, *Polis und Kosmos. Perspektiven einer Philosophie des Politischen und einer philosophischen Kosmologie. Festschrift für Eberhard Avé-Lallemant*, 2008.

3 Ferri and Ierna, *The Reception of Husserlian Phenomenology in North America*, 2019.

A central source for Spiegelberg's position is his 1937 work *Sollen und Dürfen* ("Ought and May"), which remained unpublished until Schuhmann's 1989 edition,⁴ completed shortly before Spiegelberg's passing. It is relevant to mention this editorial endeavour here for two reasons. First of all, the sheer scale of the undertaking: Schuhmann had to go through more than 900 manuscript pages to assemble a coherent work out of the notes. Due to the historical circumstances, as a person of Jewish heritage in Nazi Germany, Spiegelberg was forced to flee abroad, first to the UK then to the US, while still working on the manuscript. Once he was more or less settled, a massive German manuscript was as good as unpublishable in his new Anglophone context. Other duties and interests led to the set of notes remaining unpublished until Schuhmann took up the task. This brings us to the second reason to mention the work. The present translation is one of the most in-depth analyses of Spiegelberg's ethical thought by someone who was not only intimately familiar with the content, but also a good friend and collaborator. Besides editing *Sollen und Dürfen*, Schuhmann also collaborated with Spiegelberg on the third edition of *The Phenomenological Movement*⁵ and is acknowledged in various works as a friend and collaborator. In the present article on "Ontic and Deontic States of Affairs," Schuhmann takes up not only some of the fundamental themes spanning Spiegelberg's life-long quest for a phenomenological ethics and theory of value, but particularly does so by taking into account and integrating Spiegelberg's early works on the topic. Spiegelberg's early book-length treatments of ethical topics⁶ were never translated into English, and perhaps for this reason he is nowadays known mainly as the historian of the phenomenological movement. We hope that this translation of Schuhmann's article can also serve as an introduction and stimulus for a wider readership concerning Spiegelberg's ethical quest.

We are very grateful to Elisabeth Schuhmann and Roland Schuhmann for the kindly conceded permission to translate this article from the unpublished manuscripts of Karl Schuhmann, to Piet Steenbakkers and Cees Leijenhorst for their support, and Charlene Elsby and *Phenomeno-*

4 Spiegelberg, *Sollen und Dürfen*.

5 Spiegelberg, *The Phenomenological Movement*.

6 Spiegelberg, *Antirelativismus. Kritik des Relativismus und Skeptizismus der Werte und des Sollens* and Spiegelberg, *Gesetz und Sittengesetz. Strukturanalytische und historische Vorstudien zu einer gesetzessfreien Ethik*.

logical Investigations for providing a space for this work to finally appear in print.

We would like to take this occasion to commemorate the twentieth anniversary of the passing of our erstwhile teacher and friend, Karl Schuhmann, and present this translation as a testament to his enduring legacy and relevance for research in phenomenology.

Carlo Ierna and Robin Rollinger

PHENOMENOLOGICAL ONTOLOGY IN THE WORK OF HERBERT SPIEGELBERG: IDEAS AND (ONTIC AND DEONTIC) STATES OF AFFAIRS

1. *Phenomenology and Ontology*

Herbert Spiegelberg was not only the undisputed historian of the phenomenological movement, but also an integral part of it.⁷ However, he saw himself more as a peripheral rather than as a central figure in this movement.⁸ For him phenomenology was not a goal in itself, but it had to prove its utility time and again in the service of a philosophy aimed at the things themselves. The specific issue that interested him would remain the same throughout his life: the question of the foundations of the moral life that had already been raised in Plato's *Apology* of Socrates.⁹ In his later American period (from 1938), however, he was to look outside of phenomenology for a cornerstone for the foundation of ethics. Although he earlier had regarded certain ideal formations such as deontic states of affairs, what ought or ought not to be ("*gesollte oder nichtgesollte Sachverhalte*"), as its foundations, he was increasingly concerned with finding the foundations for moral action in the communal historical existence that human beings share, as "fellow existers." The price for this increased concreteness was letting go of the idea of an ultimate justification, insofar as actual existence was nothing but a contingent fact - an unfathomable "accident of birth," as Spiegelberg liked to say, borrowing

7 Accordingly, he also included a short autobiographical sketch in his masterwork *The Phenomenological Movement*, in which he described the goal of his philosophy as "a practical philosophy on phenomenological foundations." (Spiegelberg, *Phenomenological Movement*, 189)

8 "I am far from sure whether I belong to the phenomenological movement in the strict sense." (Spiegelberg, *Movements*, 297)

9 On the relevance of this work for Spiegelberg cf. my obituary.

an expression from J. Stuart Mill.¹⁰ This means among other things that the later philosophy of Spiegelberg is much more phenomenological and more explicitly provisional than that of his German period.¹¹ His early philosophy was, as the subtitle of his 1928 dissertation already announced, in first and foremost an “ontological investigation.” The phenomenological analyses in this work were only a means to reach the domain of ontological inquiry and were therefore “only occasionally performed.”¹² Still the 1937 work *Sollen und Dürfen* can apply phenomenology “only under certain conditions” due to its ontological orientation,¹³ that is to say, only insofar as it, as object–phenomenology, shows the way to an ontology of ethical states of affairs.

In what follows, the results of this phenomenological ontology will be explicated, as Spiegelberg elaborated it principally between 1928 and 1937. Besides the dissertation and the work *Sollen und Dürfen*, which only appeared in 1989 in a revised edition, Spiegelberg’s “Antirelativism” (“Anti-Relativism”), which was his contribution to the *Festschrift* for his teacher Alexander Pfänder and was based on a lecture from 1933, and his *Gesetz und Sittengesetz (Law and Moral Law, 1934)* will also be taken into account.¹⁴

2. Ideas and the Intuition of Ideas

10 Compare his related paper in Spiegelberg, *Steppingstones*, 107-129.

11 Cf. According to Spiegelberg, *Steppingstones*, 1: the studies collected in that volume contain his “most substantial contribution to a new phenomenological philosophy.” Also, Spiegelberg’s opinion in his collection *Doing Phenomenology* is of interest here: “The ‘quest for certainty’ is not essential to phenomenology. Phenomenology is not the master key to all locks. Enough if it can unlock some doors and especially the front door.” (Spiegelberg, *Doing Phenomenology*, XXIV)

12 Spiegelberg, “Über das Wesen der Idee,” 8, cf. 188.

13 Spiegelberg, *Sollen und Dürfen*, 41.

14 The ethics without laws, for which this work is a preparatory stage, is fully developed in *Sollen und Dürfen*.

Ontology, as the name already says, in general has to do with being.¹⁵ Now being is of two kinds, i.e., being-so or existence. The latter always means the being-there of a specific being-so and already presupposes its being-so as something realizable. This might be the reason why for Spiegelberg - he does not elaborate on this - ontology abstains from the question of being and focuses mainly on the more fundamental being-so or the essence. The essence is the determination of a bearer, due to which it is thus-and-so and not otherwise, i.e., due to which it is distinct from all other objects. In this sense, however, the essence is the mere system of external determinations of the object. Only its special kind of "having being" can characterize it in a purely internal way aside from its relations to other objects. If the essence is related to its bearer in this way, then it is characterized by its independent manner of being, thanks to which it takes its own place in the world.¹⁶ As it is thereby given its own status, it is capable of autonomously occupying its place in the world and to persist in it. This being the case, it exists, and the essence it bears exists independently of any position in a timeless-eternal being-in-itself beyond all possibilities of creation and destruction.

We must be on guard against a possible misunderstanding here. If we speak here of an object that has a certain essence as its essence, what we mean by this "object" is not an individual thing. For its modality of being would be that of a factual existence, not that of pure being-in-itself. Rather, Spiegelberg is considering that an essence as such refers to a bearer whose essence it is, independently of whether there are occurrences of this essence in the spatio-temporal world or not. Its substance-like being-in-itself constitutes, so to speak, the essence of the essence (*das Wesen des Wesens*) and is its peculiar aspect. What is ordinarily meant by "essence" is merely the specific content

15 Hence, the topic of ontology is not the object as such, i.e., anything and everything that can be the object of a meaning-act, but only what somehow contains being (*Seinsgehalt*). Even essential impossibilities, such as the round square, can after all be the objects of a ray of meaning (however absurd) and must therefore be considered as intentional objects. Contrary to Alexius Meinong's theory of objects, Spiegelberg therefore restricts ontology to the realm of possibility, in a way that reminds us of Christian Wolff (cf. Spiegelberg, "Über das Wesen der Idee," 6), which for Spiegelberg more specifically means: a restriction to what can be phenomenologically shown to be an object.

16 Spiegelberg repeatedly emphasized that the independence of the object from the (knowing) subject cannot be a criterion of reality. Not only would the acts of a subject not be real, since they depend on the subject, but this would also confuse a consequence of being-real with being-real itself. Cf. his article "The Phenomenon of Reality and Reality," first published 1940/41, reprinted in Spiegelberg, *Doing Phenomenology*, 132.

which is constitutive for this or that essence. In the first, more formal respect regarding the internal determination of the essence, Spiegelberg therefore prefers to speak of the “idea” of the object, in order to keep the expression “essence” for the core meaning of an object of whatever kind in its worldly context. The question in the title of his dissertation regarding the “essence of the idea,” as far as essence is concerned, thus refers to the specific determining characteristic that distinguishes the idea from all other objects, and as far as the idea is concerned in this title, this is its internal structure and its modality of being as being-in-itself (*Aseitität*) which we just described.

According to Spiegelberg, the distinguishing moment of the idea is its “anumeracy” (*Anumerität*) or amountlessness (*Anzahllosigkeit*). There simply cannot be two ideas with the same content. The idea of a horse, for instance, is one and the same for everyone: as soon as we would speak of two horse-ideas, this can only mean two divergent conceptions.¹⁷ Is the idea, then, always one and *one only*? Following Spiegelberg, it certainly isn’t one or unique in the same sense in which individual objects are each one and unique, since the idea by its very nature is general. It is precisely this, the fact that it is, strictly speaking, neither one nor many, which constitutes its anumeracy and its indifference to all numerical determinations. Not ideas, but only individuals can be given as one or many, since with respect to each individual object we could in principle think of as many “duplicates” as we’d like.

This also implies that the idea cannot be a part of the individual under consideration. The horse-idea is not a constitutive part of each and every horse. Hence, the idea is not an element or characteristic of or in the individual objects that would allow for the collection of a multiplicity of objects (the horses) into the unity of a class (the species horse). Based on Husserl’s second *Logical Investigation*, Spiegelberg fittingly adds to this Platonistic conception¹⁸ that precisely for this reason the idea cannot be separated from the individuals (in which it does not occur) by an act of

17 Cf. Husserl’s discussions of the identity of the meaning in contrast to the ambiguity of acts of meaning in §28 of the *First Logical Investigation*.

18 We have to understand “Platonism” in Spiegelberg’s own sense here. Spiegelberg declares that he would give back to the term “Idea” that “original meaning of the term that Plato used for the domain that he had discovered but did not fully explore.” (Spiegelberg, “Über das Wesen der Idee,” 3)

abstraction.¹⁹ The parts out of which an individual is made are without exception individual themselves, while ideas instead are general. The relation of the idea to the individual is therefore not that of the *abstractum* to the *concretum*, but that of type to token (*Urbild zu Exemplar*).

If we have characterized the idea as general up to now, then this is precisely because a multiplicity of tokens can correspond to an idea. This generality is therefore likewise an external determination of the idea. It is for this reason that its relation to the individual tokens does not mean that it is somehow contained in them and would be multiplied with them. Rather the generality of the idea only expresses the general law that “a priori numerical objects can be coordinated to anumerical objects.”²⁰ Hence, knowledge of the idea cannot be obtained through the objects, but is only possible by a direct access to it.

Nevertheless, as self-enclosed units, ideas have the form of objects. Since it belongs to the essence of an object to be given, just like all other objects, they cannot be “thought up” (*erdacht*), but only seen or intuited (*geschaut*), or when a direct intuition is lacking, they can be unintuitively meant. Now in general we distinguish between elementary and complex ideas. The former (Spiegelberg mentions a specific tonal pitch or shade of red as examples) cannot be analyzed any further and therefore can only “either be at once adequately given or ‘meant’ without any intuitive content whatsoever.”²¹ Their lack of parts excludes partial givenness. Complex ideas, to the contrary, such as tree or color in general, are only

19 As Spiegelberg himself states: “In contrast to Husserl and like Hering and Ingarden, I use the term ‘Idea’ for the object that Husserl originally termed as such in his *Logical Investigations*.” (Spiegelberg, “Über das Wesen der Idee,” 4) Hence, this implies that Spiegelberg does not follow Husserl’s further development of the concept of idea into that of “Eidos” in the *Ideas I* of 1913, but remains close to (though most often also critical of) the discussions of the concept of idea among the early phenomenologists. He particularly engages extensively with Hering “Bemerkungen” (cf. Spiegelberg, “Über das Wesen der Idee,” 87-89, 178, 228 f.). Spiegelberg only occasionally makes references to Ingarden, “Essentiale Fragen” (cf. Spiegelberg, “Über das Wesen der Idee,” 106 and 132). The result of Spiegelberg’s discussion of Hering is that Spiegelberg considers the distinctions of idea, genus, and generality as superfluous: generality and genus-character can both belong to the idea itself.

20 Spiegelberg, “Über das Wesen der Idee,” 110. However, at best the problem of the relation between individual and essence here seems to be posed, but not solved. Indeed, the question is precisely what it is in an object that is numerical by its nature, that allows or requires it to be “assigned” specifically to this or that particular idea. A criterion for this could most likely be found in the individual rather than outside it.

21 Spiegelberg, “Über das Wesen der Idee,” 136.

partially determinate and allow for alternative completions in various, but strictly circumscribed directions. For instance, color in general can be further determined as red or green, but not as hard or heavy.²² However, the innumerable alternative possibilities cannot be successively encompassed in some intuition. Yet, an intuition of ideas (*Ideenschau*) is also possible here, and indeed as an intuition of the rule of formation that underlies the further determinations of the ambiguous complex idea, just as we can bring to givenness the members of an algebraical series when we know only its initial member and the rule of formation.

3. *Intuiting and Thinking*

Ideas have objectual form in the sense that they are “concrete”, that is to say, insofar as their manifold characteristics are fused with their objectual bearer into a fixed unity. This is the reason why they can be grasped only in a single perception, at a glance. However, the same applies to numerical or individual objects. These too cannot be grasped and shown in composite acts, but only in simple perceptions. All objects, i.e., ideas as well as thing-like realities, have determinations of two kinds. On the one hand, ones that belong constitutively to their essence. For instance, there belongs to the horse-idea the having of four feet; correspondingly it belongs to the concrete horse that it has four feet. So these are theoretical determinations of the corresponding objects in the sense that all together they constitute their essence in a clear and evident way. On the other hand, objects can have values. Values, however, are “peculiar qualitative determinations of the objects (value bearers)”,²³ in so far as they likewise inhere in the essence of the corresponding object, but cannot be directly and immediately inferred from it. Values are univocally determined by the nature of the corresponding object, in so far as specific properties of the thing or idea unavoidably and necessarily have a certain value as consequence. Yet, values cannot be reduced to such theoretical properties. The connection between the object and its value quality is on the one hand necessary (the

22 Here Spiegelberg aligns with Meinong’s later theory of general objects as “incomplete”, i.e., incompletely determined objects. In general, we can remark that Spiegelberg’s ontology is in some points strongly influenced by and in part develops in explicit discussion with Meinong.

23 Spiegelberg, “Sinn und Recht,” 129. Already Spiegelberg’s terminology (“value-quality”, “value-bearer”) testifies to the influence of Max Scheler. The same goes for the thought that the nature of the objects determines which values they as such can have.

value is an essential consequence of the nature of the object), on the other still synthetic (the value cannot be analytically inferred from the nature of the object). This kind of relation Spiegelberg calls the relation of essential ground and essential consequence.²⁴

Of course, just like all other moments of an object, values are non-independent parts. Still, their grasping requires more than sense-perception or intellectual perception, i.e., a specific value sense.²⁵ Like all acts of perception, intuition, or meaning that grasp an object, also the grasping of a value is a simple act, which seeks to receive what is given *simpliciter*, without adding any new ingredients of its own. These simple receptive acts are contrasted with other acts that, before they can know anything about their object, have to construct it (*entwerfen*).²⁶ Thinking is especially one of them. Thinking is without doubt a subjective activity. In it, and only in it, an objective construct (*Gebilde*) is made, the thought. A thought is thus a logical construct which thinking projects outward (*hinausprojiziert*).²⁷ The function of the concepts employed in thinking consists precisely in this construction and identification of a specific conceptualized thought. In this way, one and the same conceptualized thought, once constructed, can be expressed in the form of a judgment (“He goes”), an assumption (“Supposing that he goes”), a question (“Does he go?”) or an order (“He is to go!”).

The thought is conceptually structured, but not as compact as an idea or a thing, but as a coherent articulated whole, i.e., a construct. Furthermore, it is not simply there and given, but has to be constructed and generated. It owes its generation to the acts of thinking. The thought is clearly distinguished from an imagined object both by its peculiar conceptual formation as well as by the explicit possibility of a correspondence of the thought with the objects present in the world. The thought does not just refer back to the act by which it was generated, but also forward towards the world, with respect to which it posits something in some way. What is posited in this manner is the state of affairs.

24 Cf. Spiegelberg, “Sinn und Recht,” 115-123.

25 This doctrine of value-feeling (Scheler) or value-taking (Husserl, Dietrich von Hildebrand) as a specific act that cannot be reduced to cognitive acts, was widespread among phenomenologists.

26 Spiegelberg took this term from his teacher Alexander Pfänder, according to whom states of affairs, contrary to things, have to be constructed in thought. Cf. Pfänder, “Logik,” 174 ff.

27 Also in this terminology Spiegelberg follows Pfänder, “Logik,” 141 f.

4. Judgments, States of affairs, and Matters

An object of intuition is an idea or alternatively a thing-like “matter” (*die dinghafte Sache*), while an object of thinking is a state of affairs.²⁸ Matters - we will henceforth use this term in its wide meaning, in which it can designate any compact object, whether thing or idea – accordingly cannot be thought, whereas a state of affairs cannot be intuited. Just as thinking is guided by intuiting, matters are the underpinning of all states of affairs (*die Sachen der Untergrund aller Sachverhalte*). Now we can, as is well known, think of all kinds of things to which there corresponds nothing in the world. Accordingly, we can also project in our thinking all possible (non-existent) states of affairs, which are nothing but “possible passive objects of projection.”²⁹ Because states of affairs in principle have a world-directedness, which misses its mark in the case of the non-existent states of affairs, only those states of affairs that do in fact correspond to the world of matters, i.e., the existing states of affairs, are ontologically interesting. Accordingly, also in the case of thinking, mainly those thoughts are relevant which can be checked with existing states of affairs, i.e., those which can be true or false: the judgments.

Judgments, by their essence, lay a claim to truth. However, they can never derive this truth from themselves, but must derive it from states of affairs as their truth-makers. If a state of affairs projected in thought is predicated in a judgment, then it is thereby affirmed or posited as coinciding with an actually existing state of affairs. Judgment and state of affairs are distinct, in so far as judgments can be proven, but states of affairs can only be pointed out or shown. Furthermore, judgments are formulated and passed by us, owing their formation to our acts, but states of affairs exist independently from all acts. And while judgments can be true or false, states of affairs can only be existent or non-existent.

This sharp division between all mental activity, including judgments, on the one hand, and states of affairs on the other hand should not make us overlook that, as we said above, without the

28 In 1930, Spiegelberg wrote a manuscript “State of Affairs and Modality,” which remained unpublished because it was unfinished, which is taken into account in the following discussion here.

29 Spiegelberg, *Gesetz und Sittengesetz*, 35.

participation of a subject, there cannot be any states of affairs. Because a matter that obtains thus and so is not in itself already a state of affairs; for that we would need to articulate the fused unity of the matter with its obtaining into its constituent parts. States of affairs are therefore dependent in two respects: on the one hand, on acts of thought (by which they are distinguished from objects), and on the other hand, on matters (by which they are distinguished from the products of our imagination). In the first respect, we can say that states of affairs have a structure parallel to that of the propositional thoughts (*Satzgedanken*) from which they are projected. Like propositional thoughts, states of affairs have a structure involving the relevant matter and its being-determined or obtaining.³⁰ In the second respect, however, the state of affairs is certainly not a purely subjective product. While in the case of a matter, it coincides indistinctly with its determinations (“white snow” is not on the one hand white, and on the other, in contrast to this, snow), the two distinct moments occur in states of affairs, but they build a structured unity therein (when we say, “that snow is white” or predicate “the being-white of the snow,” then we do in fact speak on the one hand of snow, and on the other also of the circumstance of its being white, viz. the fact that its being-white occurs). A matter is a compact unity, a state of affairs a complex one. Considering their contents, states of affairs depend entirely on the relevant matter. They are non-independent constructions, objects of higher order, that can only exist on an underpinning matter, which is the grounding and support of the state of affairs built upon it. The state of affairs and its relevant matter correspond to each other in their contents without being identical.³¹ As in the case of relation of a value to a matter, the relation between essential ground and essential consequence obtains also between a matter and state of affairs. From

30 Spiegelberg considers propositions that express propositional thoughts as always having (at least) two parts (“S is P”). Like Pfänder (“Logik”, 199 and 208), he regards existential and impersonal propositions as shortened expressions of two-membered propositions. This was not an uncontroversial position at the time, since both Brentano and Anton Marty had already argued for an interpretation of such propositions as single-membered. Following their positions, among the phenomenologists Adolf Reinach had also acknowledged impersonal propositions as single-membered judgments which refer to single-membered states of affairs (cf. Reinach, *Gesammelte Schriften*, 117-120).

31 Cf. Spiegelberg, *Gesetz und Sittengesetz*, 33.

the fused unity of a matter, we cannot analytically infer the structured state of affairs. Yet it is wholly and entirely, just like its possible value qualities, “laid out in the matter and unambiguously established by this.”³² Indeed, it is the matter, not the judgment about it, that determines how the matter obtains (*wie die Sache sich verhält*). On the other hand, the thinking subject is actively involved in the generation of a state of affairs, contrary to the generation of a matter. It is only in cognition that a matter and its determinations come apart in such a way that they can be put together again in a unitary state of affairs. The acts of thought and judgment are not the efficient cause, but the occasion (in the sense of Malebranche’s *cause occasionelle*), without which the actual unfolding of the state of affairs does not occur, as it is merely indicated and implicit as a possibility in the matter.³³ It depends on one’s attitude, whether we are aware of an object or a state of affairs. The “what” of the content remains the same in both cases, which is why the sphere of objects still takes precedence over that of acts.

5. Positive and negative States of Affairs

The state of affairs “being-P of S” as expressed in the judgment “S is P” is distinguished from the matter “S being P” by the articulation mentioned above into a distinct S and a distinct P, which occur only as fused together in the matter. Yet, the difference between them is only a formal one, for both S and P inhere with their whole content in the

32 Spiegelberg, *Sollen und Dürfen*, 132.

33 The conception of the constitution of a state of affairs as something accomplished purely in thinking, which derives its material from the perceived stuff, but only unfolds as such due to thought, corresponds to Spiegelberg’s thesis: “An organism that has only sense perception cannot ever see states of affairs.” (Spiegelberg, *Sollen und Dürfen*, 61) Sense perception is perception of things. However, as is often the case with phenomenologists, the case of so-called “seeing that” is ignored here. I can say: “I see the blooming tree,” and I can say with exactly the same justification: “I see that the tree is in bloom.” Yet, we have to note that this does not yield a decisive objection against Spiegelberg. At variance with Brentano’s students Carl Stumpf and Meinong, Spiegelberg considers the “that”-clause, since it operates with the concept of a logical function, as an inadequate expression of states of affairs. Instead, he prefers the nominalized infinitive. And indeed, we are not inclined to say: “I see the blooming of the tree”.

matter. The special form of connection between the two elements, as expressed in the judgment by “is” belongs exclusively to the state of affairs. An instance of “being” only occurs in the state of affairs, while matters as such are always what *is*. The “is” of a state of affairs represents its constitutive form. Besides this, also other kinds of connections between the two elements are possible in a state of affairs. For instance, “and” and “or” can further modify either S or P (“S and R are P”, “S or R is P”; “S is P and Q”, “S is P or Q”). Following Pfänder, who in this respect spoke of “purely functional concepts,”³⁴ Spiegelberg calls all forms of connection that can occur in a state of affairs “functional constructions.” In a thought or the corresponding state of affairs, they serve to “set the course for the process of construction” of this state of affairs.³⁵

The word “not” performs a very specific function, as in contrast with “and” and “or” it does not operate on the S or the P, i.e., on the content of the state of affairs, but on the constitutive “is”-form of the “S is P” itself. Let us look at the broader picture. All states of affairs projected in thought either exist or not. Due to the restriction of his ontology to that which has being, Spiegelberg does not show any particular interest in non-existent states of affairs. He designates existing states of affairs, just as the early Wittgenstein did, as facts (*Tatsachen*). To every true judgment there corresponds a factual state of affairs, and such states of affairs have, like everything else that has being of some kind, their own place in the world. Yet they do not have this place in the world by themselves, but only due to their “supporting foundation in being,” i.e., the concrete matter that obtains thus and so.³⁶ Now the function of “not” indicates that besides the positive states of affairs, characterized by an “is”, there are also negative ones. Given that every judgment contains either an “is” or an “is not”, we can establish the lawlike disjunction that all existing states of affairs are

34 Cf. Pfänder, “Logik”, 299 ff. In the sixth *Logical Investigation* Husserl, following Marty, had spoken of syncategorematic expressions instead.

35 Spiegelberg, “Über das Wesen der Idee,” 78. We note that for Spiegelberg functional constructions are, like numbers, “ideal numerical objects,” which means that they are indeed ideal, but not anumerical ideas. (Spiegelberg, “Über das Wesen der Idee,” 98) After all, we may say “1+1+1” as well as “A or B or C”.

36 Spiegelberg, *Sollen und Dürfen*, 131.

either positive or negative.³⁷ Positive facts characteristically form a discrete union between their matter and its obtaining (*die Sache und ihr Verhalten*). Negative facts, to the contrary, stipulate the separation of their two elements. However, this does not mean that they are adjoined to the positive ones in the sense that in both cases we would have S and P, but in one case united, in the other divided. The constitution of a negative state of affairs is much more complicated than that of a positive one. For the latter, a simple perception of the matter suffices for passing a judgment that establishes the state of affairs. The positive state of affairs is thus directly founded on the matter. However, there is no negative matter on which a negative state of affairs can be founded in an analogous way.³⁸ For its constitution, we rather need a double perception. One, of course, of the matter, but then, independently from this, we also need to grasp an obtaining or determination, such that when we relate the two elements to one another, we will ultimately arrive at the result that the matter rejects that determination. While the recognition of a positive state of affairs has a foundation in a single matter, the negative one needs two foundations. In this sense, the recognition of a negative state of affairs resembles that of a relation whose recognition also presupposes that of both the foundations of the relation. However, a relation is between two matters, while the (negative) obtaining inheres in one matter. Moreover, in the case of a positive state of affairs the S and P can be easily separated in thought, while in the case of a negative state of affairs, thought is required to unite them into a single state of affairs in the first place. By themselves, the matter and its determination are “so to speak in different places.”³⁹ If I say: “snow is not green,” it is not the snow that somehow by itself actively rejects the being-green, but it is only in the configuration of this matter with this obtaining which I established that their disunity comes to the

37 Spiegelberg explicitly draws on Reinach “Zur Theorie des negativen Urteils,” 250 f. for the existence of negative states of affairs. For Spiegelberg likewise $-(S = P)$ and $S = -P$, the denial of a positive and the affirmation of a negative judgment, do not coincide.

38 This is why Spiegelberg states in the manuscript “State of Affairs and Modality”: “If we would look for the essence of the negative state of affairs in the ontic correlate of negation, we would find nothing, because the ‘not’ does not mean an ontical object (*das ‘nicht’ meint keinen ontischen Gegenstand*).” Therefore, as he argues against Heidegger, it is “wrong to explain the ‘not’ through the Nothing.”

39 Spiegelberg, *Sollen und Dürfen*, 103.

fore, owing to which these two elements have no unity in the pure sphere of matters.

6. *Sollverhalte: deontic states of affairs*

In the context of his ethical pursuits, Spiegelberg is interested specifically in what he calls deontic states of affairs (*Sollverhalten*);⁴⁰ indeed, his whole investigation of states of affairs serves mainly as a foundation of these deontic states of affairs in contrast with ontic ones [which have thus far been called “states of affairs” *simpliciter*].⁴¹ In the latter the “is (not)” always plays a constitutive role, which is why, contrary to deontic states of affairs, they can also be called states of being (*Seinsverhalte*). In deontic states of affairs, by contrast, the constitutive role is played by a “ought (not)” (“*soll (nicht)*”). Like being, an ought is not an unarticulated full-fledged object, but only arises as a moment of a obtaining of the form “S ought (not) to be P.” “An ought is always a determination of an object.”⁴² More precisely: an ought always applies to the case that some determination of an object ought to be. However, for deontic states of affairs, the being apart or together of the object and the determination is not, as it is with the ontic states of affairs, factually the case, but ought to be. That is to say, in deontic states of affairs, something is merely projected as an ideal. Yet, a deontic state of affairs is not therefore simply unreal, as a fictional or merely assumed state of affairs is, but rather it is connected more closely with ontic states of affairs insofar as - even though just ideally, since it is of an ideal nature - it intrinsically aims at a conversion into an ontic state of affairs. What ought to be, should in the end simply *be*. An object S ought not simply “P”, but ought to *be* P viz. *have* the determination P. To every deontic state of affairs X, there essentially belongs an ontic state of affairs X', though this ontic state of affairs cannot be inferred from it. Though an ought is always an ought-to-be, we cannot

40 Early Munich phenomenology had already broadened Husserl's concept of state of affairs, taking into account also other theoretical acts, to include interrogative, epistemic, even optative states of affairs, etc., but it is a special contribution of Spiegelberg to have extended the concept, through the conception of the analogous deontic state of affairs, into the field of practical philosophy.

41 The corresponding permissive states of affairs (*Dürfensverhalte*) and other practicalia (obligations, demands, charges, justifications, etc.) are left out of consideration in the following.

42 Spiegelberg, *Sollen und Dürfen*, 48.

legitimately infer from ought to being. The corresponding ontic state of affairs is, in a certain sense, a mere external determination or, as Spiegelberg likes to say, “an integral accessory” of the respective deontic state of affairs,⁴³ insofar as this intrinsically demands the union or the separation of S and P in the corresponding ontic state of affairs. This demanded direction towards the corresponding ontic state of affairs constitutes the goal of the deontic bond that connects the S and P in the deontic state of affairs.

Hence, the deontic state of affairs, in contrast to the ontic state of affairs, is dynamic in two respects. On the one hand, the relation of unity or separation between the objectual substrate S and the determination P that ought to be is not the static one that is characteristic of the ontic state of affairs, but a dynamic pulling together or pushing apart. Therefore, the deontic state of affairs does not rest in itself like the ontic state of affairs, but points ahead beyond itself to the corresponding ontic state of affairs that is to be realized. This ideal requirement or drive constitutes the deontic character of the deontic state of affairs, which aims, so to speak, at resolving (*aufheben*) itself in the correlative ontic state of affairs. Or, to describe their relation more accurately, the deontic state of affairs requires an action or a process by which the deontic goal (the corresponding ontic state of affairs) is realized. In this aiming at existence, the deontic judgment does in a certain sense resemble the ontic judgment, insofar as a judgment of the latter kind also contains an aiming at existence. After all, every judgment implicitly asserts the factual existence of the state of affairs it expresses. Moreover, the character of validity of the deontic judgment is comparable to the character of truth of the ontic judgment.⁴⁴ And just as ontic states of affairs are built upon matters, a deontic state of affairs is built upon a matter that ought to be (*gesollte Sache*). Given the ideality of the deontic state of affairs, however, this can only be an ideal matter, not one pertaining to things, more precisely: concrete ideals, whose effect is much more powerful in the lives of people and community than that of the corresponding deontic states of affairs.

Moreover, this connection to what actually is the case in the world also explains the historically variable character of what ought to be from time to time. What ought to be at one point in time no longer ought to be in different circumstances. Now every ontic state of affairs either ought to be,

⁴³ Spiegelberg, *Sollen und Dürfen*, 60.

⁴⁴ Cf. Spiegelberg, “Sinn und Recht,” 109.

ought not to be, or is freely permissible. That is to say, between every matter and its obtaining there exists ideal attraction, rejection, or neutrality.⁴⁵ Which one of these three possibilities actually occurs in particular cases, however, is determined by historical context and hence is variable.⁴⁶ A geometry of values is therefore possible in principle, but can tell us very little about what ought or ought not to be in individual cases. In this respect, Spiegelberg rejects any merely formal theory of value. While deontic states of affairs that are decreed and prescribed by the laws of a state can be relatively sure of being realized (and are thus externally determined) thanks to the real power of the people in charge, the deontic states of affairs in ethics depend exclusively on the degree of conviction they develop in the thinking and willing of individuals or a community. There is no guarantee of their realization, and in this respect the belief in an undeniable moral progress of humanity is unfounded. Deontic states of affairs share this kind of merely “soft” power with all else that has an ideal nature. What is aimed at here is not a fatalistic mechanism, but the reason and understanding of every individual.

How far reason will have the opportunity to make its move or reach its goal is a precarious affair and left to the responsible understanding of the individual. The only means for a philosopher to improve morality is his unconditional striving to be honest and scientific. Not only is there lacking for him any external means of coercion, but he must even in principle reject Fichte’s attempt “to force the reader to *understand*.” He can do no more than “keeping his eyes open for the supra-temporal real order and justice amidst an anarchical world congested with laws.”⁴⁷ Also with respect to his own philosophy, Spiegelberg could only hope that its thoughts, as he already wrote in his dissertation dedicated to the *Idea* (which is as such unreal), would eventually “prove themselves as effective ‘force’.”⁴⁸ But only in certain circumstances, since Spiegelberg entrusted

45 Cf. Spiegelberg, *Sollen und Dürfen*, 126.

46 Indeed, exactly due to the ontic direction of the deontic state of affairs Spiegelberg can claim: “If we would cut off the values and practicalia from this concrete context, this would be an unfounded, artificial abstraction even from the point of view of a correctly understood absolute theory [of value].” (Spiegelberg, *Antirelativismus*, 95)

47 Spiegelberg, *Gesetz und Sittengesetz, Vorwort*.

48 Spiegelberg, “Über das Wesen der Idee,” 197. Looking back at his dissertation, half a century later Spiegelberg wrote that what fascinated him in the topic of the idea was the fact that “Ideas could not dispose of any power of their own but required ‘empowering’ by the free acts of persons.” (Spiegelberg “Apologia,” 268)

his thoughts without reservation to the critical examination of each and everyone, including himself.

This examination guided Spiegelberg, as mentioned in the beginning, to a certain modification, even to mostly abandoning his early ontology. On the one hand, insofar as he did not further develop it, but concentrated his efforts on the new foundation of ethics. On the other, also in the sense that he no longer sought such a foundation in elements such as ideas, ontic or deontic states of affairs, which are related to thought and partially dependent on it, but nonetheless stand before it as objects. Rather, for the later Spiegelberg, the ultimate ontological cornerstone of the ethical universe is the irreplaceable uniqueness of each Self as the “the center of a world of his own,” where this world also reflects the worlds of all other Selves.⁴⁹ This would be thanks to a sense, constitutive of all selves, for the ethical bonds among all who share the unsolicited fate of being “fellow existers.” Existing is a fact, that cannot be understood either as an ethical merit nor as a demerit for the individual, but that fixes the “initial moral score” as equal for everyone.⁵⁰ This yields the unconditional requirement of an ethics of solidarity among moral equals. We only need to think of ourself as if we were put in the other’s shoes, in order to obtain the insight that we are entitled to the same and no other demands towards him as he is towards us and how this is so.⁵¹ Such demands for an essentially social ethics have to be capable of being expressed linguistically and being objectivated, because otherwise the intersubjective acknowledgement of the unconditional equality of all could not be guaranteed. In such a context, a part of what Spiegelberg in his early phase had indicated as the ethical affairs of what ought and ought not to be,

49 Spiegelberg, *Steppingstones*, 4. Thus we find here a peculiar monadology with open windows, which however we cannot discuss in more detail.

50 Spiegelberg, *Steppingstones*, 14 f.

51 It can be pointed out here that this ethical imperative also forms the basis for Spiegelberg’s extensive historical work specifically regarding phenomenology. What other philosophers before us and besides us have claimed to have seen, demands the unconditional readiness to engage with it, by placing ourselves in their position and examining their claims from the standpoint of their place in the world. It is not the historical aspect that is decisive in this respect, but the striving for an unconditionally honest examination. The final part of the *Phenomenological Movement*, which invites us to continue to philosophize, containing the “Essentials of the Phenomenological Method,” is therefore not a negligible afterthought of the work as a whole, but its true *raison d’être*.

what is and is not permissible, as well as rights and obligations, should still be viable.

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