

Interpretive Justice in Heteromorphic Value Conversion

Toward a Generative Relational Theory of Legitimate Value Conversion Nomos

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Abstract

A polity that recognizes several official languages must maintain an apparatus of translation, and the apparatus is an institution with a politics of its own. This paper takes that arrangement as a model for a wider condition. Where the values held within a polity are generated in different relational settings, they acquire different semantics, different conditions of production, and different histories, so that collective decision requires their conversion into terms admitting of comparison. The framework performing that conversion is treated here as a translation regime for values, and the paper asks what makes such a regime legitimate. The survey concedes that the descriptive half of this subject is occupied: the sociology of commensuration has established that conversion frameworks are interpretive, institutionalized, and productive of power, and the sociology of worth has mapped the plural orders across which conversion must operate. What appears to remain open is a normative account of the legitimacy of a conversion framework considered as an institution. The paper proposes such an account in three parts: a distinction between the justice of a framework's formation and the justice of the framework itself; six meta-principles by which a framework may be assessed, five of them inherited from existing traditions and attributed accordingly; and a criterion under which a framework is assessed by whether it preserves the capacity of the relations it orders to generate a further determination of the equivalences it fixes. The account supplies no procedure for measuring that capacity, it does not resolve the trade-off between the cost of translation and the reach of a polity, and its central propositions are entered as hypotheses. The closing questions are held to be the more valuable half of what is offered.

Keywords: multilingual democracy; commensuration; value conversion; legitimacy; translation; counterpower; relational plurality; governance.

A note on the standing of this paper. This is a discussion paper. It identifies a structure, surveys what existing scholarship has made of it, marks where each account appears to run out, and proposes a direction for work. It does not complete a theory. The survey is conducted in a conceding register, because the central descriptive claims of this subject were established some decades ago in a literature the political-theory treatments of value pluralism do not always cite, and a paper that failed to say so would be worth less than one that says so first. Where a claim entered here as open is in fact occupied, or where a source has been read wrongly, correction is welcome at huangwanhong@serendip.ngo.

1 INTRODUCTION

A polity that recognizes several official languages faces a problem its monolingual neighbours can leave implicit. Its laws must exist in several versions, and the versions must be held to say the same thing. When they diverge, some institution must determine which reading governs, and that determination is made by an apparatus of translation, interpretation, and authorization that the polity has built and maintains at considerable expense. The European Union adopts its legislation in all official languages with each version equally authentic; Switzerland, Canada, India, Belgium, and South Africa each maintain arrangements of comparable ambition. Such arrangements are costly, they are contested, and they are the visible institutional form of a question that monolingual polities answer without noticing that they have answered it.

The question is what a polity does when the terms in which its members articulate what matters to them fail to coincide. This paper takes the multilingual case as a model for a wider condition, and the extension is the paper's organizing hypothesis. Where the values held within a polity are generated in different settings, through different practices, and under different histories, they acquire what may be called heteromorphy: differences in semantics, in the mechanisms by which they are produced, in the relational structures that sustain them, and in the meanings they carry for those who hold them. The ecological integrity of a watershed, the security of a livelihood, the continuity of a language community, the return on invested capital, and the dignity of a person subjected to an administrative decision are values of this kind. They are not versions of one thing, and a collective decision bearing on all of them requires that they be brought into some relation admitting of comparison. The framework by which that is done may be understood as a translation regime, and a polity operating under heteromorphic values may be understood as multilingual in an extended sense.

Three difficulties motivate what follows. The first concerns visibility. The apparatus performing value conversion in contemporary governance is largely technical in appearance: a discount rate, a valuation methodology, an impact assessment protocol, a scoring rubric, a schedule of weights. Because the apparatus presents as method, the settlements it embodies are seldom examined as settlements, and the choice among them is seldom recognized as a choice about what will count. The second difficulty concerns the standing of such settlements. A conversion framework, once established, determines what may subsequently be said in the polity's collective deliberations, since a value with no place in the framework has no way of entering a decision that the framework governs. This gives the framework a constitutional character that its technical presentation conceals. The third difficulty concerns the absence of a criterion. Governance cannot proceed without conversion, and the impossibility of a fully adequate conversion is well established, so a polity must operate a framework it knows to be imperfect. What distinguishes a defensible framework from an indefensible one, given that

neither will be adequate, is a question the available literatures address obliquely.

Five bodies of work bear on these difficulties, and each is treated at length below. The sociology of commensuration has established that the making of heterogeneous things comparable is a social and interpretive process, that it is institutionalized, and that it operates as a mode of power (Espeland & Stevens, 1998, 2008; Porter, 1995; Desrosières, 1998). The sociology of worth has mapped the plural orders of justification within which claims are made and has examined the compromises by which disputes across orders are provisionally settled (Boltanski & Thévenot, 2006). Philosophical work on incommensurability and on contested commodification has established when and why particular values resist conversion (Raz, 1986; Chang, 1997; Sunstein, 1994; Anderson, 1993; Radin, 1996; Satz, 2010; Sandel, 2012). Political theory has treated the multilingual polity directly, under the heading of linguistic justice, and has examined what a polity owes to speakers of its several languages (Van Parijs, 2011; Kymlicka & Patten, 2003). The critical literature on cost-benefit analysis, finally, has examined the most consequential conversion framework now in operation (Ackerman & Heinzerling, 2004). These literatures settle a considerable proportion of the subject, and one purpose of this paper is to record how much; the survey below accordingly proceeds by conceding first and locating what remains afterwards.

The account offered here is developed within a framework the author has set out elsewhere, and which may be stated in a sentence:

Generative Relational Being. *A theory of how subject, meaning, value, creation, and normativity co-emerge through generative relational processes.*

Three features of the framework bear on the present subject. Values are treated as generated within relations, so that heteromorphy follows from relational plurality and requires no further explanation: values differ in kind because the relations that produce them differ in kind. Relations are treated as generative, in that a relation in working order produces further determinations of meaning, of value, and of what the relation itself requires. The framework carries, third, a methodological commitment governing how its claims are advanced, its keynote being historical dialectics, so that propositions are entered as revisable within a historical frame, the finitude of knowledge and of practice is acknowledged as a standing condition, and philosophical argument is joined to operable formulation where the subject admits of it. A paper written under that commitment states its claims so that they may be given up.

Applied here, these features suggest a reformulation. A conversion framework may be understood as an institution that fixes, for the purposes of collective decision, the relations obtaining among values that were generated separately. Such a framework has consequences for the relations it orders, since a fixed equivalence enters those relations and shapes what they subsequently produce. The proposal advanced below is that a framework may be assessed by

what it does to the generative capacity of the relations it orders, and the proposal is entered as a hypothesis.

This is a discussion paper, and its role is correspondingly limited. It identifies a structure, surveys what existing scholarship has made of it, marks where each account appears to run out, and proposes a direction for work; it does not complete a theory, and several of its central propositions are entered as hypotheses awaiting examination. Three matters lie outside the undertaking. The paper offers no valuation methodology, and §16 explains why none follows from the account. It does not adjudicate the philosophical dispute over whether incommensurability is a real feature of values or an artifact of description, taking from that dispute what bears on institutions and leaving the metaphysics where it stands. It leaves aside, third, the empirical performance of particular conversion instruments, which would require methods the paper does not employ.

Four contributions are offered, claimed with differing degrees of confidence. The first is a mapping: the survey locates which questions in this area appear to be settled and which appear to remain open, and that mapping retains its value independently of whether the proposals below are accepted. The second is an extension of the multilingual model to heteromorphic values, advanced in §4 as a hypothesis with its licence and its limits stated. The third is a distinction between the justice of a framework's formation and the justice of the framework itself, developed in §10, together with an account of how that distinction may be drawn without reinstating a question a companion paper has argued to be misposed. The fourth is a proposed criterion, advanced in §13 with its costs stated, under which a conversion framework is assessed by whether it preserves the capacity of the relations it orders to generate a further determination of the equivalences it fixes. The questions set down in §17 are held to be the more valuable half of what is offered.

2 SCOPE AND METHOD

2.1 *The Containment Device*

Three questions organize the discussion, and material earns its place by discharging one of them:

- (i) *The regime.* What is the framework by which heteromorphic values are brought into relations admitting of comparison, and what kind of institution is it.
- (ii) *Its formation.* Who holds standing to contribute to the construction of such a framework, and on what ground.
- (iii) *Its legitimacy.* What distinguishes a defensible framework from an indefensible one, given that no framework will be adequate.

The second question is treated at length in a companion paper on participation justice and is taken up here only where the present subject alters it. The third is the question this paper is principally concerned with.

2.2 *The Conceding Register*

A theory whose components are individually unoriginal may still contribute through the manner in which it joins them, and the joining becomes visible only where the components are correctly attributed. The argument of this paper is architectural, and an architectural argument is weakened by any claim to have quarried its own stone. Where a claim that might have been advanced here appears to be occupied, the relevant section says so and names the occupant.

2.3 *The Standing of the Multilingual Model*

The multilingual polity is used here in two senses, kept distinct throughout, since the paper's title turns on the difference.

It is used, first, as a literal case. Multilingual polities exist, their translation regimes are documented, and what those regimes cost and what they secure is a matter of record. Section 3 treats this material as evidence about institutions.

It is used, second, as a model for the wider condition of heteromorphic values. That extension is a hypothesis, it is defended in §4, and the defence includes a statement of what the model fails to capture. A model that were treated as an identity would mislead, since values differ from languages in ways §4 sets out.

2.4 *A Note on Sources*

The survey draws on economic sociology, science and technology studies, political theory, moral philosophy, and law. These fields cite one another unevenly, and one incidental finding of the survey is that the same structural point has been reached independently within several of them. Where that has occurred it is recorded, since convergence from unconnected directions is evidence of a kind.

3 TRANSLATION REGIMES IN MULTILINGUAL POLITIES

The literal case is treated first, since it supplies the institutional vocabulary the rest of the paper borrows.

3.1 *Equal Authenticity and Its Apparatus*

The European Union adopts its legislation in each of its official languages, with every version equally authentic. No version is the original and none is a translation of the others in the legal

sense, so that where versions diverge the Court of Justice compares them and resolves the divergence by reference to the purpose and general scheme of the measure. The arrangement is maintained by a translation service of considerable size, by drafting conventions designed to reduce divergence, and by a body of interpretive doctrine developed for the purpose.

Comparable arrangements operate elsewhere with variations that are instructive. Switzerland maintains federal law in three languages with a fourth holding partial status, and allocates linguistic competence largely to cantons. Canada requires federal statutes in English and French, each authoritative, and has developed a doctrine of shared meaning for reconciling divergences. India designates official languages at union level while conducting much administration in state languages, producing a layered arrangement in which the language of governance varies with the level of government. South Africa recognizes a larger number of official languages with differentiated practical obligations.

3.2 Findings from the Literal Case

Three findings bear on the extension proposed below.

A polity can operate without a single privileged language. The arrangements above are workable, they have persisted, and they demonstrate that the coordination a polity requires does not entail a single medium of expression. The demonstration matters because the contrary assumption is frequently made about values, where the impossibility of a common metric is treated as an argument that collective decision would be impossible without one.

The cost is real and it falls unevenly. Translation is expensive, it introduces delay, and it produces divergences requiring adjudication. Van Parijs (2011) examines the distributive consequences of linguistic arrangements and argues that the spread of a lingua franca confers unequal burdens and benefits, since those who must learn the common language bear a cost that native speakers avoid. The literature on language rights (Kymlicka & Patten, 2003) examines what a polity owes to its linguistic communities and records that the choice among arrangements distributes advantage.

The regime is an institution, whatever its technical presentation. Which languages hold official status, what equal authenticity requires in practice, how divergence is resolved, and who decides, are settled by constitutional provision, statute, and doctrine. They are contested politically, they are revised, and they are recognizably objects of governance.

3.3 The Demonstration Carried Forward

A companion paper on organizational rule-interpretation records an observation about the European arrangement that bears directly on the present subject. Where a single authoritative text exists, the claim that the text underdetermines its own application can be resisted by asserting that a competent reader simply sees what the words require. Where several texts are

equally authentic and they diverge, the insufficiency of any single text lies on the face of the record, and the system is compelled to adopt an interpretive ordering that places purpose and scheme above the wording of any one version. Multilingualism converts a contested philosophical thesis into an operational necessity.

The same structure will be claimed below for values. Where one framework of valuation is in place and unchallenged, the claim that it constructs equivalence can be resisted by asserting that it measures something already there. Where two frameworks are in operation and they disagree, the constructive character of both is exhibited.

4 THE EXTENSION FROM LANGUAGES TO VALUES

The extension proposed here is a hypothesis, and this section states it, gives the grounds for it, and states what it fails to capture.

4.1 The Hypothesis

Working hypothesis on the extension. *Values generated within different relational settings stand to one another approximately as natural languages stand to one another: they carry semantics that do not map term for term, they are produced and sustained by different practices, they encode histories that their vocabularies presuppose, and rendering one in the terms of another is an operation of translation with the losses that translation entails. A polity holding values so related may accordingly be described as multilingual in an extended sense, and the framework by which it renders values comparable may be described as its translation regime.*

4.2 Grounds for the Extension

Four features of heteromorphic values support the analogy.

Values differ in semantics. The vocabulary in which ecological integrity is articulated contains terms with no counterpart in the vocabulary of financial return, and the substitutions available are approximations whose adequacy is contested.

Values differ in their conditions of production. A value sustained by a practice of intergenerational transmission is produced differently from one sustained by market exchange, and the difference bears on what would count as respecting it.

Values carry histories. A claim about ancestral land presupposes a history that the claim does not restate, and a rendering of that claim in terms of land value discards the presupposition while preserving the reference.

Values resist, finally, term-for-term rendering. The philosophical literature treated in §7 establishes that some pairs of values admit no common measure that preserves what matters about each, which is the condition translators describe as untranslatability.

4.3 *The Disanalogies and Their Weight*

Three disanalogies attend the extension, of which the third is the most serious.

Languages have identifiable communities of speakers with recognized competence, and the boundaries of a language are settled with reasonable determinacy by linguistic practice. The boundaries of a value-language are not settled in that way, and who counts as competent in a given value vocabulary is contested in a manner that competence in Finnish is not.

Translation between natural languages has an evaluative standard internal to the practice: a translation may be assessed as accurate or inaccurate by those competent in both languages. Conversion between values has no comparable internal standard, since the parties competent in each value vocabulary characteristically disagree about what an adequate rendering would preserve. The absence of that standard is what makes value conversion a governance problem where translation remains a craft problem.

A natural language does not, third, make claims in the ordinary case upon the speakers of another. Values do. A claim that a river holds standing is a claim upon those who do not hold it, in a way that a sentence of Finnish makes no claim upon a speaker of Tamil. The model therefore understates the adversarial character of the situation, and any argument drawn from the multilingual case must be checked against that understatement before it is relied upon.

4.4 *Findings and Residue*

The extension rests on four grounds and carries three disanalogies, of which the absence of an internal standard of adequacy is the most serious. Its use below is confined to institutional vocabulary and heuristic guidance, with no conclusion derived from it as a premise. The risk that it may nonetheless be doing more work than the disanalogies permit is entered in §16.

5 COMMENSURATION AS AN ESTABLISHED OBJECT OF STUDY

5.1 *The Established Position*

The making of heterogeneous things comparable has been studied as a general social process for some decades. Espeland & Stevens (1998) define commensuration as the comparison of different entities according to a common metric, treat it as a social process with a long history as an instrument of social thought, analyse it as a mode of power, and examine the stakes involved in declaring something incommensurable. Their programme was to establish commensuration as a general phenomenon deserving investigation in its own right, and the subsequent

literature has followed it.

Espeland & Stevens (2008) extend the treatment to quantification generally, examining the production and circulation of numbers and identifying the effects that measures produce upon what they measure. Porter (1995) argues that quantitative objectivity arises from political and institutional pressures and functions as a strategy of impersonality adopted where trust is scarce. Desrosières (1998) treats statistical categories as conventions that must be constructed and sustained. Bowker & Star (1999) examine classification systems as infrastructures that recede from view while carrying moral and political consequences. Fourcade (2011) shows that monetary valuations of nature reproduce the conceptions of nature that motivated their construction. The field of valuation studies has developed around the proposition that value is enacted through devices and practices (Vatin, 2013).

5.2 *The Concession Stated*

Two claims that a relational account might wish to advance are occupied by this literature, and the occupation is substantial.

The claim that conversion frameworks are interpretive in character, and that equivalence is constructed in the course of conversion, is the founding commitment of the field. The claim that such frameworks are institutionalized, contested, and productive of power is stated in the same founding article. A paper presenting either as a discovery would be mistaken, and a reviewer in economic sociology would say so.

5.3 *The Residue*

Three things appear to remain.

The literature is descriptive and critical. It examines how commensuration is accomplished, what it does to what it measures, and whose interests it serves. It does not offer a normative account of what would make a commensurative framework legitimate, and the question of how a polity ought to construct and maintain such a framework is largely outside its remit.

The field acknowledges its own condition. Berman & Hirschman (2018) observe that the sociology of quantification resembles a genre more than a subfield, lacking general claims and a common theoretical language. That observation identifies an opening for theoretical work while confirming that the descriptive terrain is occupied.

The relation, third, between a conversion framework and the relations it orders has not, so far as this survey has found, been made the object of a criterion. Section 13 proposes one.

5.4 *Findings and Residue*

The interpretive and institutional character of conversion frameworks is established, and the works establishing it are named above. The residue lies in the absence of a normative account

of what makes such a framework legitimate.

6 ORDERS OF WORTH AND THE SETTLEMENT OF CROSS-ORDER DISPUTES

The nearest structural rival to the account proposed here belongs to a different tradition.

6.1 *The Plural Orders*

Boltanski & Thévenot (2006) hold that justification in ordinary disputes proceeds within a limited number of orders of worth, each organized around a higher common principle by which persons and things are ranked. The orders they identify include the market, the industrial, the civic, the domestic, the inspired, and that of fame. A claim advanced within one order is intelligible as a justification within it, and the same claim may carry no weight within another.

The framework bears on the present subject because disputes characteristically cross orders. A proposal defended by industrial efficiency may be resisted by civic solidarity or by domestic attachment, and the parties are then arguing in different registers about the same object.

6.2 *Compromise Across Orders*

Their treatment of such disputes is the material closest to a theory of value conversion. Cross-order disagreement may be settled by arrangements that hold together persons and objects belonging to different worlds, and such compromises establish local and workable accommodations. They stress that compromises remain precarious, since a party may at any point revive the critique proper to their own order and the accommodation then requires renegotiation.

6.3 *The Distance from the Present Account*

Three differences may be recorded, of which the third leaves the most room.

The framework is pragmatic and descriptive. It examines how competent actors argue, what they appeal to, and how disputes are resolved in practice. It offers no criterion by which a settlement may be judged legitimate.

The unit is the dispute. Compromises are local accommodations reached in particular episodes, and the framework does not treat the standing institutional arrangements within which many such disputes are settled in advance by a common instrument.

The framework has been criticized, third, for dissolving structural power. Honneth (2010) argues that an account organized around the justificatory competence of actors loses the asymmetries within which justification occurs. The criticism bears on the present paper's concerns directly, since §11 treats the power produced by a conversion framework as central.

6.4 *Findings and Residue*

Plural orders of worth and the compromises settling disputes across them are established. The treatment is pragmatic and dispute-centred, and it neither supplies a criterion of legitimacy nor addresses the standing institutions within which many disputes are settled in advance. The residue is accordingly normative and institutional.

7 THE RESISTANCE OF VALUES TO CONVERSION

A third literature establishes when and why particular values resist rendering in one another's terms.

7.1 *Incommensurability*

Raz (1986) argues that some options stand in no relation of better, worse, or equal, so that the failure to rank them reflects the values themselves, with fuller information leaving the failure in place. Chang (1997) collects the subsequent debate and develops the possibility that options may be on a par without being equal. Sunstein (1994) carries the argument into law, holding that human goods are assessed along diverse kinds of valuation and that legal institutions both recognize and suppress this diversity. Anderson (1993) grounds the pluralism in an account of modes of valuation, on which goods differ in kind according to the attitudes appropriate to them.

7.2 *Contested Commodification*

A related literature examines the specific case of rendering goods in monetary terms. Radin (1996) argues against the picture on which everything is in principle exchangeable, and develops the notion of incomplete commodification, on which a good may be simultaneously subject to market and non-market understandings. Satz (2010) examines markets that are objectionable on grounds including the vulnerability of participants, weakness of agency, and the severity of outcomes for individuals and for society, and emphasizes that markets are constituted by laws and institutions and are accordingly matters of public concern. Sandel (2012) distinguishes an objection from coercion, concerning the fairness of exchanges made under inequality, from an objection from corruption, concerning the degradation of a good's constitutive norms when it is priced.

Zelizer (1994) supplies the empirical counterpart, showing that money is continually differentiated in use, earmarked for particular purposes, and invested with meanings that resist its formal fungibility. The finding supports the general position of §5 from a different direction: equivalence is negotiated in practice and does not obtain by the nature of the medium.

7.3 *The Residue*

This literature establishes when conversion is objectionable and what is lost when it proceeds. It stops short of the question this paper is concerned with. A polity that accepted every finding above would still have to decide how to structure the framework it must nonetheless operate, since the decisions requiring conversion do not cease upon the demonstration that conversion is imperfect. What follows from these findings for the design of a standing conversion institution is largely unstated.

7.4 *Findings and Residue*

The resistance of values to conversion is established, and its principal treatments are named above. The residue lies in the passage from a critique of conversion to the design of a framework that must operate despite the critique.

8 COST-BENEFIT ANALYSIS AS THE WORKING INSTANCE

The most consequential conversion framework now operating supplies the paper's running case.

8.1 *The Instrument*

Regulatory decisions in many jurisdictions are assessed by comparing the monetized costs of a measure with its monetized benefits. The comparison requires that mortality risk, morbidity, ecological condition, time, and amenity be rendered in a common unit, and a body of technique has developed for the purpose, including the valuation of statistical life, contingent valuation surveys eliciting willingness to pay for non-marketed goods, and discounting procedures relating present and future.

8.2 *The Critique*

Ackerman & Heinzerling (2004) argue that no meaningful monetary price attaches to life or to nature, that the techniques by which such prices are produced embed contestable assumptions, and that decisions of this kind should reflect values chosen on moral grounds through democratic processes. The critique is normative and it is directed at the conversion framework as such.

The defence holds that decisions bearing on these matters are taken in any event, that implicit valuations are embedded in whatever is decided, and that making the valuations explicit improves deliberation by exposing them. Sunstein (1994) occupies a considered position, acknowledging the diversity of kinds of valuation while resisting the conclusion that quantitative comparison should be abandoned.

8.3 *The Instance Read Structurally*

Three features of the instance bear on the argument below.

The framework is constitutional in effect and technical in presentation. A discount rate settles the standing of future persons within every decision the framework governs, and it is set by a procedure that few of those affected could identify.

The framework produces the terms of its own contestation. A party objecting to a regulatory decision assessed in this way is ordinarily obliged to argue within the framework, by contesting a parameter, since an objection expressed outside it has no place in the assessment.

The framework has been revised, third, in response to sustained criticism, which establishes that arrangements of this kind admit of revision and that the revisions are political events.

8.4 *Findings and Residue*

The working instance is in place and its normative critique is developed. That critique proceeds largely by argument against monetization, and the design of an alternative standing framework remains unspecified.

9 THE VALUE CONVERSION NOMOS

The survey to this point has conceded the descriptive terrain and located a normative residue. The object addressed by the remaining sections may now be named.

9.1 *The Object Named*

Working definition. *A value conversion nomos is the institutionalized interpretive framework by which a polity establishes, for the purposes of collective decision, the relations obtaining among values generated in different relational settings.*

Four features of the definition require comment.

The framework is institutionalized. It is carried by rules, methodologies, offices, and precedents, and it persists across the particular decisions it governs. A single act of comparison performed by an individual falls outside the definition.

The framework is interpretive. What it fixes are relations that the values themselves leave undetermined, and the fixing draws on judgement about what matters in each value and what a defensible rendering preserves. This restates the position of §5 and claims no originality for it.

The framework is oriented to collective decision. Frameworks operating for other purposes, including private deliberation and scholarly comparison, fall outside the definition, which is

confined to arrangements bearing on what a polity does.

The framework establishes, fourth, relations of several kinds. Equivalence is the limiting case. A nomos may also fix relations of priority, of threshold, of admissibility, and of exclusion, and an arrangement declaring a value inadmissible in a class of decisions is performing an act of the same family as one declaring a rate of exchange.

9.2 *The Term and Its Provenance*

The term nomos is borrowed and carries two prior meanings that require distinguishing.

Cover (1983) uses nomos for the normative universe a community inhabits, generated through the narratives by which a community gives its precepts meaning, and diminished when institutions with authority to determine meaning suppress the alternatives that communities have generated. That usage is the one intended here, and the present paper extends it: where Cover addresses the generation of normative meaning, this paper addresses a particular institutional product within it, namely the framework fixing relations among values.

Schmitt (2003) uses nomos differently, tying it to the appropriation and division of territory as the constitutive act from which an order proceeds. That usage is not intended here, and the distinction is entered because the term carries the association and because the political provenance of that account is contested.

9.3 *Findings and Residue*

The object is named, four of its features are stated, and the intended sense of the borrowed term is distinguished from an available alternative. The questions of formation and of legitimacy remain for the sections following.

10 TWO JUSTICES DISTINGUISHED

The second and third questions of §2 are distinct, and this section separates them and resolves a difficulty that the separation raises.

10.1 *The Distinction*

Proposed distinction. *The justice of the formation of a nomos concerns who holds standing to contribute to its construction and revision, and by what arrangements they do so. The justice of the nomos concerns the properties of the framework itself, assessed independently of the history by which it came to be.*

The distinction has practical force in two directions. A framework constructed through an impeccable process may fix relations that render a value systematically invisible, and the impeccability of the process supplies no answer to a party so affected. A framework constructed

by an unrepresentative body may fix relations that survive examination, and the defect in its formation is a reason for scrutiny without being a demonstration of defect in the product.

10.2 A Difficulty Arising from a Companion Paper

The distinction meets an objection drawn from the author's own prior work, and the objection is serious enough to state fully.

A companion paper on value conversion argues that standing to write a conversion rule is generated by the act of crossing categories, so that whoever performs a conversion acquires the vocabulary in which the matter is subsequently discussed, and concludes that the question of who owns the right of interpretation is misposed (Huang, in preparation, b). The second question of §2 asks precisely that question. If the companion paper is right, the question should be withdrawn.

The resolution proposed here follows a distinction developed in a second companion paper on organizational rule-interpretation (Huang, in preparation, a). Conferral of interpretive standing fixes the holder without fixing the reach. At the core of a conferral the holder is settled and no interpretive act is needed to see it; at the edge, what the holder may determine is itself settled by an interpretive act, ordinarily performed by the holder. Standing accordingly has an open texture of its own, and the two positions are compatible once core and edge are distinguished.

Applied here, the resolution reads as follows. A polity may confer upon a body the authority to construct a conversion framework, and the conferral is real. What the body may bring within the framework, which values it treats as admitting of conversion at all, and what it treats as falling outside its remit, are settled by the body in the course of constructing the framework, and to that extent the companion paper's thesis holds. The question of who constructs the nomos is therefore askable and its answer is partial: conferral settles the centre and the act of construction settles the edge.

10.3 The Consequence for the Two Justices

The resolution bears on the distinction in a way that should be recorded. Because the reach of a conversion framework is settled in the course of constructing it, the formation of a nomos and the content of a nomos are connected more tightly than the distinction suggests. A body constructing a framework determines, by the same acts, both what the framework says and what the framework is about. The distinction between the two justices is accordingly analytical and does not describe two separable institutional moments.

10.4 *Findings and Residue*

The distinction stands, and the difficulty a companion paper raises for it is answered by the distinction between the core and the edge of a conferral. The two justices are connected more tightly than the analytical separation implies, since a body constructing a framework settles by the same acts what it says and what it is about. The treatment of formation remains with the companion paper on participation justice.

11 POWER PRODUCED BY CONVERSION, AND THE CASE FOR COUNTERPOWER

A conversion framework appears to produce power, and the production appears to be systematic. The mechanism is set out below, together with what is established about it and a remedy proposed in response.

11.1 *The Loop Described*

The mechanism may be stated as a sequence. Values generated in different settings require rendering in common terms before a collective decision bearing on them can be taken. The rendering is performed by a framework. Decisions taken under the framework allocate resources, authority, and standing. Those allocations strengthen the position of parties whose values the framework renders favourably, and the strengthened parties are better placed to influence the framework's maintenance and revision. Subsequent renderings accordingly proceed under conditions the previous renderings helped to establish.

11.2 *The Concession*

The descriptive content of this loop is established. Espeland & Stevens (1998) analyse commensuration as a mode of power in the article that founded the field. Foucault (1980) supplies the general thesis that regimes of truth are sustained by and sustain relations of power, of which the present loop is a specialization. Fourcade (2011) documents the return path, showing that monetary valuations of nature feed back into the practices and representations from which they were drawn. Espeland & Sauder (2016) document reactivity in the case of rankings, showing that measures alter the conduct of those measured in ways that confirm the measures.

The descriptive content of the loop is accordingly inherited. The pairing of that content with a normative requirement, set out in the subsection following, is itself drawn substantially from existing traditions.

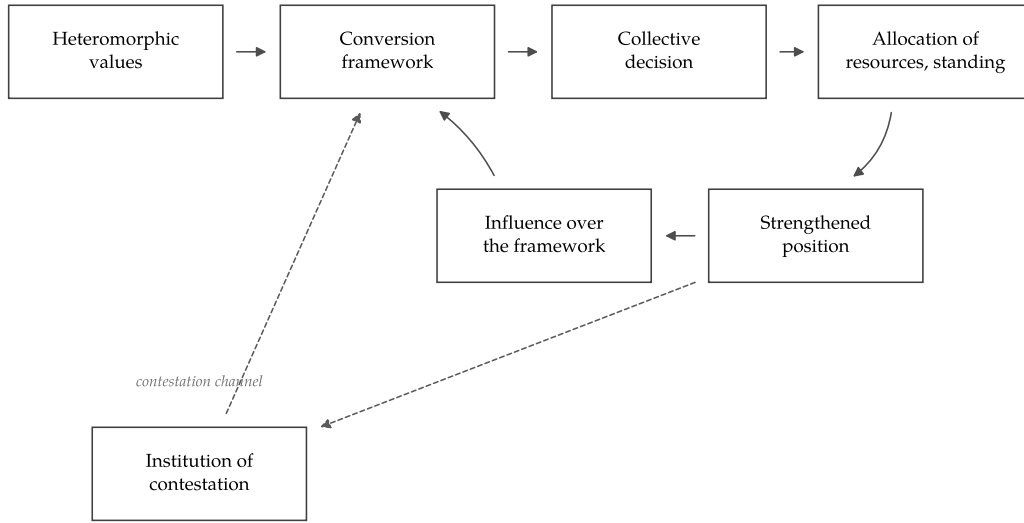


Figure 1: The loop described in §11, drawn as a schematic. Values generated in separate settings are rendered comparable by a conversion framework; decisions taken under the framework allocate resources and standing; the allocation strengthens parties favourably rendered; and those parties are better placed to shape the framework’s maintenance. The dashed path is the contestation channel proposed in §11, drawn as a branch that reaches the framework without passing through the parties the framework has strengthened. The figure carries no claim about the magnitude or the rate of any of these effects, and the arrangement of the boxes carries no claim about temporal order.

11.3 Counterpower and Its Provenance

The remedy proposed is that a conversion framework should be constructed so as to generate, alongside the power it confers, a capacity to contest the framework itself. The proposal requires attribution in two directions.

Galbraith (1952) advances the concept of countervailing power, holding that the effective answer to concentrated economic power is the development of organized power on the other side, and that in the absence of such development the strong determine outcomes unchecked. The structural logic is the one relied upon here.

Pettit (1997, 2012) supplies the more exact analogue. On the republican account, freedom consists in the absence of domination, and a power capable of arbitrary interference is compatible with freedom only where those subject to it hold an institutionalized capacity to contest its exercise. Pettit distinguishes the authorial dimension of democracy, by which decisions are made, from the editorial dimension, by which they are challenged, and holds that the second must be institutionally distinct from the first.

The proposal advanced here is the application of that structure to conversion frameworks:

Proposed requirement. *A conversion framework confers power upon the parties it renders favourably. A framework that confers such power without instituting a capacity to contest the framework itself tends toward a condition in which the terms of contestation are set by the parties the framework has strengthened. The requirement proposed is that the institution of contestation be established alongside the framework and be structurally distinct from the body maintaining it.*

The requirement is a proposal and its empirical premise is a conjecture. Whether frameworks lacking such an institution in fact tend toward the condition described is an empirical question, and §16 records that the paper does not establish it.

11.4 *Findings and Residue*

The loop is stated and its descriptive content is conceded to the traditions that established it. The counterpower remedy is likewise inherited, and its application to conversion frameworks stands as a proposal resting on a conjecture that this paper does not establish.

12 META-PRINCIPLES FOR THE ASSESSMENT OF A NOMOS

Six principles are proposed. Five are substantially inherited and are attributed; the sixth is drawn from a companion paper. They are offered as a set for examination, with their standing as a list left open.

12.1 *The Principle of Generativity*

A nomos should preserve the capacity of the relations it orders to continue producing determinations of what those relations require. The principle is the framework's own and it is developed as a criterion in §13. Its nearest antecedent is Cover's account of the generation of normative meaning within communities and of the institutional acts by which such generation is suppressed (Cover, 1983).

12.2 *The Principle of Counterpower*

A nomos should generate, alongside the power it confers, an institutionalized capacity to contest the nomos itself. The principle is inherited from Galbraith (1952) and, in the form relied upon here, from Pettit (1997, 2012), and §11 states the application.

12.3 *The Principle of Co-Creation*

A nomos should be constructed through arrangements admitting contribution from those whose values it orders. The principle is inherited. Habermas (1996) grounds legitimacy in the

discursive conditions under which norms are adopted, and Ostrom (1990) associates enduring self-governance with arrangements under which those affected by rules may participate in modifying them.

12.4 The Principle of Non-Erasure

A nomos should not render any affected value systematically inarticulable within the decisions it governs. The principle is inherited from two directions. Fricker (2007) identifies hermeneutical injustice, arising where a gap in collective interpretive resources places a party at an unfair disadvantage in making sense of their experience, and traces it to unequal participation in the practices by which social meanings are generated. Fraser (2008) identifies misframing, in which the constitution of the frame excludes parties from consideration as subjects of justice. The commensuration literature reaches a parallel finding, recording that commensuration renders some aspects of a situation invisible (Espeland & Stevens, 1998).

12.5 The Principle of Revisability

A nomos should remain open to revision by those it orders. The principle is inherited from the same sources as co-creation, and it is distinguished here from co-creation because a framework may admit contribution at its founding and foreclose alteration afterwards.

12.6 The Principle of Admissible Refusal

A nomos should admit the move by which a party declines conversion altogether. The principle is drawn from the companion paper on value conversion, which argues that a party asserting that no rate obtains between two categories is advancing a claim about the categories, which differs in kind from a dispute about the rate, and that a framework unable to receive such a claim collapses into the position that everything is convertible and only terms remain (Huang, in preparation, b).

The principle is distinct from revisability. Revisability concerns whether a fixed relation may be altered. Refusal concerns whether the pairing may be denied. A framework may permit continual adjustment of a rate while treating the existence of some rate as beyond question, and the principle proposed here holds that such a framework is defective in a respect that adjustment cannot repair.

The literature of §7 supports the principle from outside the framework. Incomplete commodification (Radin, 1996), the objection from corruption (Sandel, 2012), and the constraints on objectionable markets (Satz, 2010) are each, on the present reading, articulations of a refusal that a conversion framework should be able to receive.

12.7 *The Set Considered as a Whole*

Two observations attach to the set.

The principles are not independent. Refusal without revisability is precarious, since a framework may receive a refusal and decline to act on it. Counterpower without co-creation tends to a contestation conducted by parties who had no part in what they contest. The set is offered as a whole whose members support one another.

The principles may conflict. A framework maximally open to refusal and revision may be unable to settle anything, which is a defect for a polity that must decide. The set supplies no ordering for such conflicts, and §16 records the omission.

12.8 *Findings and Residue*

Six principles are proposed, five of them attributed to existing traditions and the sixth distinguished from its nearest neighbour within the set. The set is neither independent nor ordered, and the consequences of that are entered in §16.

13 THE CRITERION OF GENERATIVE PRESERVATION

The principles of §12 state desiderata without supplying a test. One is proposed below, and the paper's substantive contribution rests upon it.

13.1 *The Criterion Stated*

Proposed criterion. *A value conversion nomos is defensible in respect of a given pairing when it preserves the capacity of the relations it orders to generate a further determination of the relation it has fixed between them. It is indefensible when it extinguishes that capacity, whether or not the relation it fixed was accurate, and whether or not any party was excluded from its construction.*

13.2 *The Ground of the Criterion*

The criterion derives from the framework and its ground lies there. If values are generated within relations, and if the relations that generate them also generate determinations of what they require, then a framework that fixes a relation between two values has entered the relational field it orders. Where the fixing leaves the field able to produce a further determination, the framework has settled a question provisionally, which is what a framework for collective decision is required to do. Where the fixing removes the field's capacity to produce any further determination of that question, the framework has replaced a generative relation with a settled quantity, and the loss falls on the relation itself.

13.3 *The Distance from Accuracy*

The criterion is deliberately silent about whether a conversion is correct, and the silence requires defence.

The literature of §7 establishes that many conversions admit of no correct answer, so a criterion of accuracy would be inapplicable in exactly the cases that matter. A criterion of capacity applies in those cases, since a relation may retain or lose the ability to produce a further determination whether or not any determination is uniquely correct.

The criterion accordingly ranks two failures differently. A framework that fixes an indefensible rate while leaving the question open has committed an error that the relation it orders may correct. A framework that fixes a defensible rate and closes the question has removed the means by which errors of the first kind are found. On the present account the second is the graver institutional failure, and this ranking is the criterion's principal claim.

13.4 *Relation to the Family of Criteria*

The criterion has two siblings. In a companion paper on organizational rule-interpretation, an interpretation is held unjust when it extinguishes the capacity of the relation between interpreter and interpreted party to generate a further interpretation of the same question (Huang, in preparation, a). In a companion paper on participation, an arrangement is held sufficient when it preserves the capacity of the affected relations to generate a further determination of the moment at issue (Huang, in preparation, c). In the companion paper on value conversion, a conversion is held unjust when the party against whom an equivalence is asserted can no longer contest that the equivalence holds (Huang, in preparation, b).

The four share a form: an act or an institution is assessed by what it does to the capacity of a relation to produce a further determination of the matter the act settled. The recurrence is offered as weak evidence for the form, on the ground that a criterion reached in four domains is more likely to be tracking something than one constructed for a single case. The evidence is weak because the four were developed by one author within one framework, and a common origin is an alternative explanation of the convergence that this paper is unable to exclude.

13.5 *Application to the Working Instance*

Applied to the framework of §8, the criterion yields an assessment that differs from the standard critique.

The standard critique holds that monetized valuations of life and of ecological condition are inaccurate and that the inaccuracy is not remediable. On the present criterion the question is different: whether the framework leaves the relations it orders able to generate a further determination of the valuations it fixes. A framework that publishes its parameters, that receives objections to them, that admits claims that a given pairing should not be made at all,

and that revises in response, satisfies the criterion whether or not its current parameters are defensible. A framework whose parameters may be contested only by argument conducted in its own terms, and which has no channel by which the pairing itself may be denied, fails the criterion whether or not its parameters are well chosen.

The assessment is offered as an illustration of the criterion's operation. Whether any particular jurisdiction's arrangements satisfy it is an empirical question this paper does not address.

13.6 Findings and Residue

The criterion is proposed, grounded in the framework, and distinguished from accuracy. Its siblings are recorded together with the alternative explanation of their convergence, and its application to the working instance is illustrated. The assessment of generative capacity remains without a procedure, which §16 enters as the principal weakness.

14 RELATION TO EXISTING THEORIES OF JUSTICE AND GOVERNANCE

Five positions require comparison, and one of them requires care, since a natural contrast would misdescribe the position it is drawn against.

14.1 Justice under an Assumed Index

Rawls (1971) constructs an account of justice in which the primary goods furnish the currency of distributive comparison. The construction requires that the several primary goods be weighted into a single index, and the difficulty of specifying that weighting is acknowledged within the theory and has been pressed by commentators since. The relation to the present subject is that the index performs the work this paper attributes to a conversion framework, and that the theory proceeds after such comparability has been secured. The present paper takes as its object what that construction takes as given.

14.2 Legitimacy through Discourse

Habermas (1996) grounds the legitimacy of norms in the discursive conditions of their adoption. The relation to the present subject requires care, since discourse theory addresses the constitution of validity and is therefore closer to the present account than a flat contrast would suggest. The difference proposed is one of object: discourse theory specifies conditions on the procedure by which norms are adopted, and the present paper asks after properties of a standing framework assessed independently of the procedure that produced it, which is the distinction of §10.

14.3 Evaluation under Incomplete Comparability

The relation to Sen (1970, 1992) requires care, and stating it accurately improves the paper's position.

Sen has argued since 1970 that completeness ought not to be imposed upon evaluative orderings, and the capability approach proceeds with partial orderings, dominance rankings, and intersection methods precisely because a full weighting across heterogeneous capabilities is unavailable and, on his account, unnecessary for many judgements. Any suggestion that this body of work assumes heterogeneous capabilities to be mutually convertible would be mistaken.

The relation is accordingly complementary. Sen establishes that reasoned evaluation can proceed under incomplete comparability, which is a result about what an evaluator may conclude. The present paper concerns institutions that must nonetheless produce determinate outcomes for binding collective decisions, where partial orderings leave a residue that some procedure will settle. What settles the residue, and on what terms, is the object here.

14.4 Governance of Rules and Governance of Measures

Ostrom (1990, 2005) distinguishes operational, collective-choice, and constitutional levels of rules and examines the arrangements under which self-governing communities sustain them. Constitutional-level choice, concerning which actors hold standing and which institutional forms are available, approaches the present subject closely. The difference proposed is that the framework treats rules governing conduct and the standing to make them, and treats the evaluative terms in which the merits of rules are assessed as largely given. The commentary on that framework has noted its limited treatment of power, which §11 takes as central.

14.5 Power and the Production of Equivalence

Foucault (1980) holds that regimes of truth are constituted within relations of power. The specialization proposed here, that power institutionalizes equivalence relations, is not original to this paper: it is substantially the position of Espeland & Stevens (1998), who analyse commensuration as a mode of power. What the present paper adds to that specialization is the normative requirement of §11 and the criterion of §13.

14.6 Findings and Residue

The account has been set beside five positions. One relation proves complementary where a natural contrast would have misdescribed it, and the specialization of the power thesis to equivalence is owed to the commensuration literature.

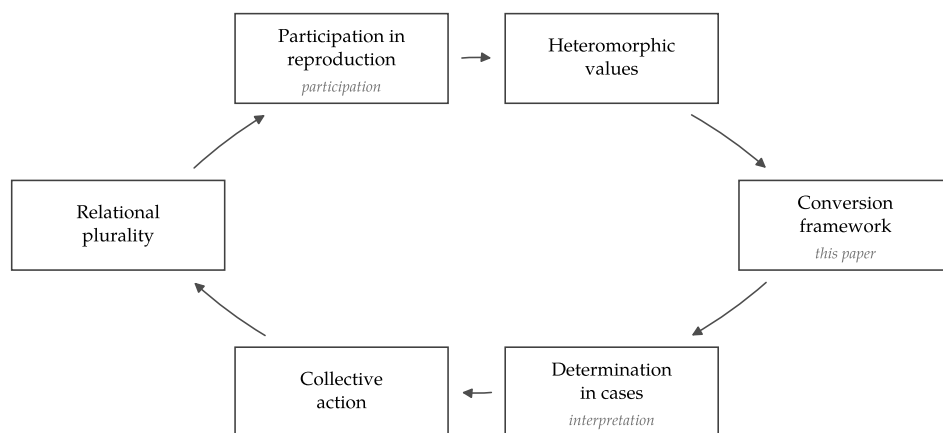


Figure 2: The circuit within which the account sits, with the companion papers marked. The figure records relations among the papers and asserts no temporal sequence, since the moments recur and overlap and a polity is ordinarily engaged in several at once.

15 THE PLACE OF THE ACCOUNT WITHIN A WIDER PROGRAMME

15.1 *The Circuit*

The account completes a circuit that companion papers enter at other points. Relations generate values, and the plurality of relations accounts for the heteromorphy of what they generate. The arrangements by which parties contribute to reproducing those relations are the subject of the companion paper on participation. The framework by which heteromorphic values are rendered comparable is the subject of this paper. The application of that framework to particular cases is the subject of the companion paper on interpretation. What is determined issues in collective action, and action remakes the relations from which the circuit began.

15.2 *The Priority Question Declined*

A conclusion suggests itself from the circuit, that the conversion framework is foundational and that other questions of justice presuppose it. That conclusion is declined in its strong form for the reason given in the companion paper on participation. The claim that the constitution of the frame is prior to questions of what is owed within it has been advanced and defended (Fraser, 2008), and a relational restatement of it would inherit the objections it has attracted.

The weaker claim asserted here concerns propagation. A defect in a conversion framework appears downstream as a decision that a party cannot contest, since the terms in which the objection would be expressed have no place in the assessment. An injustice presenting at

the point of decision may accordingly have originated at the point where the framework was constructed, and the tracing of such defects to their origin is a use to which the account may be put.

15.3 Findings and Residue

The circuit is set out and the companion papers are marked upon it. The strong priority claim is declined, and a weaker claim about the propagation of defects is advanced in its place.

16 THE LIMITS OF THE ACCOUNT

The account is now complete enough to be priced.

No procedure for the criterion. The criterion of §13 turns on the capacity of a relation to generate a further determination, and no procedure is offered by which that capacity may be assessed in a given case. What would count as evidence that a question remains open, who would assess it, and against what baseline, are unsettled. This is the principal weakness of the account.

No valuation methodology. A polity persuaded of everything argued here would still require a means of comparing values in order to decide, and the account supplies none. It states conditions upon a framework and does not supply a framework.

The set of principles is unordered. Section 12 records that the six principles may conflict, and the account offers no ordering. A framework maximally open to refusal and revision may be unable to settle anything, which is a defect for an institution whose purpose is to permit decision.

The empirical premise of counterpower is a conjecture. The requirement advanced in §11 rests on the proposition that frameworks lacking an institution of contestation tend toward a condition in which the terms of contestation are set by the parties the framework has strengthened. That proposition is plausible and it is not established here.

The model may be doing unlicensed work. Section 4 records three disanalogies between languages and values, of which the absence of an internal standard of adequate rendering is serious. Arguments drawn from the multilingual case may carry an assumption of translatability that the value case does not support, and a reader should treat each such argument with that risk in view.

The descriptive terrain is borrowed. As §5 concedes, the interpretive and power-laden character of conversion frameworks is established elsewhere. What is offered here is a normative superstructure, and a reader who judges the superstructure thin will find little else.

Two claims are entered against this list. The criterion of §13 states a condition on conversion frameworks that the surveyed literatures appear not to state, and it does so in a form applicable in the cases where accuracy is unavailable, which are the cases of interest. The sur-

vey, second, locates with some precision where the residue appears to lie, which retains its value independently of whether the criterion is accepted.

17 OPEN QUESTIONS

This paper identifies a neglected structure. It does not complete a theory of it, and the questions below are held to be the more valuable part of what is offered.

If the structure is real, the following questions arise immediately.

The first group concerns the model.

Q1. How far does the multilingual model extend before the disanalogies of §4 defeat it?

The absence of an internal standard of adequate rendering is the disanalogy most likely to mislead, and locating the point at which arguments from translation cease to carry would improve the account.

Q2. Do value-languages admit of identification independently of the framework that renders them? The account speaks of values generated in different settings, and whether such settings individuate value-languages determinately, or whether the individuation is itself an act of the framework, is unsettled.

The second group concerns the institution.

Q3. What institutional forms can carry the contestation requirement of §11? The requirement specifies a structural relation between a framework and a body able to contest it, and which existing institutions satisfy the specification, and at what cost, is unexamined.

Q4. How may a refusal be distinguished from a rate dispute in practice? The principle of §12 turns on the distinction, and a framework receiving a claim must classify it before responding, which is an interpretive act performed by the framework upon a claim directed against it.

Q5. Can the six principles be ordered? A polity facing a conflict among them requires guidance the account does not supply, and whether a principled ordering exists, or whether the conflicts are to be settled case by case, is open.

The third group concerns the criterion, and the questions are sharpest here because the claims are strongest.

Q6. What evidence bears on whether a question remains open? The criterion applies with confidence in retrospect, once a pairing has visibly failed to be reopened across a long

period. Applying it at the time a framework is designed is what would be useful, and it remains unsupplied.

- Q7.** Does generative capacity admit of degrees, and if so what threshold does the criterion require? Preserving the capacity to generate a further determination is compatible with preserving it barely, and whether the criterion demands more than bare preservation, and on what ground, is unsettled.
- Q8.** Can a framework satisfy the criterion for one pairing and fail it for another? The criterion is stated pairwise, and whether an assessment of a framework as a whole may be assembled from pairwise assessments, or requires something further, is open.

The last question is the one the account is directed toward, and it is placed last because everything above bears on it.

- Q9.** Under what institutional and relational conditions does a conversion framework retain its generative capacity across time? Frameworks settle into usage, parameters acquire the authority of precedent, the parties strengthened by a framework accumulate influence over its maintenance, and the ordinary pressure toward finality operates continuously. A framework satisfying the criterion when established may fail it a generation later with no act of foreclosure by anyone. What sustains generative capacity across such drift is the question on which the practical value of the account depends, and it is entirely open.

A closing observation about the shape of the list. The questions of the first two groups could be pursued within existing disciplines, and several are being pursued there under other descriptions. The questions of the third group could not, since they concern a criterion advanced here. A reader who finds the survey useful and the criterion unpersuasive may take the first and leave the second, since the survey's findings about where the residue lies do not depend on the criterion being correct. The reverse is unavailable: the criterion is a proposal about what a conversion framework is for, and it requires the reformulation of §9 to say what it is a criterion about.

A note on method. No formal apparatus has been used. The loop of §11 could be written in the notation of dynamical systems, with a framework answering to a parameter and the accumulation of influence to a slow variable, and a companion work on historical dynamics does something of this kind. Written out here, such a model would derive nothing the prose does not state and would supply an appearance of precision the argument has not earned. The conditions under which the notation would become honest are set out in Q6 through Q9.

A note on the survey. The literatures drawn on here cite one another unevenly, and several of the convergences recorded above were located in the course of the survey. The descriptive claims attributed to the sociology of commensuration and to the sociology of worth carry the weight of the paper's concessions, and they have been stated conservatively for that reason. Where a source has been read at second hand, the claims resting on it have been kept correspondingly weak.

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