

WRITTEN AND CODED "SPEECH ACTS"

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Preliminaries



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- 3. They can be computed in different ways and the difference matters

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- 3. On the shared Welt as in-formed by computing systems
- 4. The difference that makes a difference
- 5. Coded speech acts under the rule of law

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 - Shared world
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 - Forms of life, language games, to follow a rule and family resemblance
- Austin, Searle and MacCormick's speech act theory
 - Further developed with regard to written speech legal acts
 - 'Text-driven Jurisdiction in Cyberspace' <u>https://osf.io/jgs9n</u>/

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 - Simulation, representation, traces, computational inferences
 - Note that any 'feedback' or 'experience' is either data or code, not RL
 - An algorithm cannot be trained on future data

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- The adaptive, relational and ecological nature of human cognition implies that computing systems transform both our shared Welt and our selves

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- Computing requires deciding on proxies, e.g. groundtruthing in ML
 - The central notion in design, default settings and deployment is relevance
 - Relevance depends on purpose, actor(s) and environment
 - LoP: generic, operational, concrete (e.g. justice, fairness, equivalent error rate)

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 - not a calculation of given target variable, objective function

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 - Natural language combines
 - stabilisation of meaning with adaptiveness and
 - the potential of novelty
 - against the background of shared life forms, patterns of interaction
 - the latter basically 'count as' brute facts
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 - They enable coordination of legitimate expectations
 - By attributing legal effect if specific legal conditions are fulfilled

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 - are naked, invisible, not regulated in the case of coded speech acts

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27/10/21 written and coded speech acts

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- But the 'performative effects' also depend on
 - the 'brute force' of the code and its output:
 - decisions and behaviour
 - irrespective of meaning attributed

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- This is why a human 'in the loop' will not do

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Under the rule of law?

Computing systems may afford or leverage power re-distributions – Economic, military, geopolitical
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- Their 'speech acts' should be brought under the rule of law:
 - Design, provision, deployment of computing systems cannot be part of a law-free zone
 - No 'freies Ermessen' for potentially high impact coded 'speech acts'

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 It aims to protect
 - the incomputable nature of human agency
 - a shared world that affords privacy, diversity, inclusion
 - transparency, accountability and contestability of big players
 - by way of a series of institutional checks and balances
 - notably 'effective and practical' fundamental rigths

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 - Written legal speech acts are ambiguous, multi-interpretable and thus contestable

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 - Contestability implies speech acts rooted in our shared world
 - This is where written and coded speech acts meet:
 - Discussing design choices and anticipated decisions and behaviour of the systems built
 - This is not about ethics but about who has the power to decide



Closure