

## Anchoring versus Grounding: Reply to Schaffer

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In his insightful and challenging paper, Jonathan Schaffer argues against a distinction I make in *The Ant Trap* (Epstein 2015) and related articles. I argue that in addition to the widely discussed “grounding” relation, there is a different kind of metaphysical determination I name “anchoring.” Grounding and anchoring are distinct, and both need to be a part of full explanations of how facts are metaphysically determined.

Schaffer argues instead that anchoring is a species of grounding.<sup>1</sup> The crux of his argument comes in the last sections of his paper, in his discussion of “exportation,” the relations strategy, and the definitions strategy. I am inclined to agree that Schaffer’s interesting strategies offer the best choices for the philosopher who wants to insist that anchoring is a species of grounding. But both, I will argue, are fatally flawed. I do not take the separation of anchors from grounds lightly, but find the evidence in its favor overwhelming. And once the distinction is made, I find anchoring to be a powerful practical tool in metaphysics.

### 1. Anchoring versus grounding: the basic idea

A straightforward way to see the difference between anchoring and grounding is to consider legal facts. In *The Ant Trap* I introduce the kind *war criminal* as an example, and Schaffer takes it up, so I’ll continue to use that example here.

Suppose you are a judge at the International Criminal Tribunal for the former Yugoslavia (ICTY), and Ratko Mladic is brought before you, accused of war crimes. The prosecution argues that Mladic is a war criminal, in virtue of (among other atrocities) having ordered the massacre in Srebrenica in 1995. Consider some claims Mladic’s lawyers might make in his defense:

- G1. There was no 1995 Srebrenica massacre.
- G2. Even if the massacre did take place, Mladic did not order it.
- G3. Even if Mladic did order the massacre, he was a soldier following the orders of higher-ups.
- G4. Mladic’s actions do not fall under the jurisdiction of the ICTY.
- G5. Yugoslavia was not a state in 1995.
- G6. Yugoslavia was not at war in 1995.
- G7. There are no armed conflicts.

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<sup>1</sup> Katherine Hawley and Mari Mikkola have also argued against the distinction between grounding and anchoring. Hawley argues for a different sort of “conjunctivism” than Schaffer does; unlike Schaffer, she rejects UNIVERSALITY (cf. section 3 below). Mikkola is skeptical of grounding in social ontology, and likewise expresses skepticism that anchoring plays an interesting philosophical role. See Hawley 2019; Mikkola 2019 and my reply (Epstein 2019).

These are claims the defense might argue to persuade the court that Mladic is not a war criminal. If one or more of these claims were true, the argument would be, Mladic does not meet the conditions for being a war criminal.

There is also a different strategy the defense might pursue. In addition to arguing that Mladic fails to meet certain conditions, the defense could further argue over *what it takes* to be a war criminal. His lawyers might argue:

WC1. Perpetrating such a massacre is not a war crime.

WC2. Ordering such a massacre to be perpetrated is not a war crime.

WC3. If a soldier performs an action following orders from higher-ups, that action is not a war crime.

WC4. Only actions that fall under the jurisdiction of a war crimes tribunal can be war crimes.

WC5. Only actions performed to the benefit of states can be war crimes.

WC6. Only actions performed in the context of war can be war crimes.

This second set of claims are about what it takes—that is, what the conditions are—to be a war criminal. They are not more general or “structural” than the previous set, but are claims about the boundaries of *war criminal*, as opposed to claims about whether Mladic’s actions fall within those boundaries.<sup>2</sup>

How would you, as judge, go about adjudicating claims in the second set? Outsiders to the law sometimes assume that we can just look at the statutes on the books to see how legislators have defined war crimes and other legal kinds. But this is not how the law works. It has long been recognized in legal theory that legislators are only one kind of player in the web of factors that determine the boundaries of legal kinds.<sup>3</sup> To be sure, legislative enactments play some role in carving out legal kinds, and statutory texts sometimes give partial accounts of the membership conditions for those kinds. But all modern legal systems (whether they are predominantly common-law systems, civil-law systems, or hybrids of some sort) have more complex structures of determination. Among the factors that “carve out,” “socially construct,” or “anchor” the boundaries of *war criminal* are the following:<sup>4</sup> customary practices, historical case law, the enactment of statutes, the physical recordings of statutes in codes of law, jury decisions, administrative practices and rules, the enactment of treaties, principles and rules of international law, national laws of systems around the world, and internationally recognized human rights.

Suppose, for instance, one needed to assess WC6, “Only actions performed in the context of war can be war crimes.” This might sound like a truism, or at least like a claim that would be resolved in the text of some decisive statute. But no: the claim is probably false.<sup>5</sup> To assess it

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<sup>2</sup> This is not the same thing as the distinction in law between “questions of law” and “questions of fact.” For instance, a claim that Mladic’s actions are outside the jurisdiction of a war crimes treaty is a claim about whether he satisfies one of the conditions for being a war criminal, but courts would typically consider that to be a matter of law rather than of fact.

<sup>3</sup> See, for instance, Hart 1961; Bederman 2010; Kmiec 2004.

<sup>4</sup> See Cassesse et al. 2002; Schwarz 2014; Treves 2006.

<sup>5</sup> See Schwarz 2014.

would require empirical work. Historical customs and habits would have to be investigated, as would statute enactments, physical records in codes of law, decisions by previous courts, and so on. All these real-world facts potentially figure into the boundaries of the kind.

We've thus raised three questions for you as judge:

- (1) Does Mladic meet the conditions for being a member of the kind *war criminal*? Or, more generally: take a kind *K* such that facts of the form ***x* is a member of *K***<sup>6</sup> are grounded by facts of the form ***x* has properties *P*<sub>1</sub>...*P*<sub>*n*</sub>**.<sup>7</sup> Does *x* have properties *P*<sub>1</sub>...*P*<sub>*n*</sub>?
- (2) What *are* the conditions for a person to be in the kind *war criminal*? More generally: take a kind *K*. What are the properties *P*<sub>1</sub>...*P*<sub>*n*</sub> such that facts of the form ***x* is a member of *K*** are grounded by facts of the form ***x* has properties *P*<sub>1</sub>...*P*<sub>*n*</sub>**? What, in other words, are the “grounding conditions” for facts of the form ***x* is a member of *K***?
- (3) What makes *those* the conditions for a person to be in the kind *war criminal*? More generally: what facts in the world make *K* a real kind? What makes it the case that facts of the form ***x* is a member of *K*** have the grounding conditions they do? Or to put it in my terminology, what facts *anchor* the grounding conditions for ***x* is a member of *K***?

In these questions, I have distinguished two metaphysical “making” relations. One set of facts is responsible for “making” (or “carving out” or “setting up” or “anchoring”) the conditions for a person to be a member of the kind *war criminal*. Included in that set are customary practices, enactments of statutes, judgments of cases, and so on. Another set of facts is responsible for “making” (or “determining” or “grounding”) the fact **Mladic is a war criminal**. Included in that set are facts about atrocities, following orders, the political situation in Yugoslavia, and so on. Both of these can be understood as non-causal determination—or as metaphysical explanation—relations. But they are distinct from one another: it is one thing to ask what facts “set up” or “anchor” a kind and quite another to ask what facts determine that something falls into it.

## 2. Schaffer's counterclaim

Schaffer does not actually object to my intuitive distinction between anchoring and grounding. What he denies is the claim that there are two different metaphysical relations at work. He argues instead that the grounds for a fact like **Mladic is a war criminal** includes *both* what I call the anchors and what I call the grounds. Anchoring, according to Schaffer, is a sub-species of grounding. In *The Ant Trap* I name this view “conjunctivism.”<sup>8</sup> According to the

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<sup>6</sup> As Schaffer correctly notes, ***x* is a war criminal** and ***x* is a *K*** are fact-schemas rather than facts. It is pretty common to use schemas like this to generalize over things like truth-conditions of propositions, application-conditions of predicates, satisfaction-conditions of formulas, and so on. For more discussion of this, see my reply to Mikkola in Epstein 2019.

<sup>7</sup> This is a bit of a simplification: these can be disjunctive, and we also need to account for both the various ways ***x* is a member of *K*** can be determined as well as the facts on which ***x* is a member of *K*** depends. See *The Ant Trap*, pp. 106-109.

<sup>8</sup> See Ch. 9. Schaffer notes in footnote 5 that his “grounding-only” (GO) view is just one species of conjunctivism. Searle, for instance, is a conjunctivist of a different species: instead of grounding, he uses the “counts as” relation. I do challenge Searle's view in *The Ant Trap*, but Schaffer is correct that the main question I address in responding to

conjunctivist, the fact **Mladic committed various atrocities in the context of armed conflict** is *partial* grounds for the fact **Mladic is a war criminal**. The conjunctivist holds that the full grounds include more than these facts. They also include what I call the anchors: the customary practices, the enactment of statutes, the judgments in historical cases, etc., that socially construct the kind *war criminal*.

Is anchoring a variety of grounding, or is it distinct? Schaffer points out that the disagreement is important: if I am correct and anchoring is distinct from grounding, we need to rethink some basic features of metaphysical determination, kinds, and possibility. And the disagreement is not just over semantics. To be sure, even if everything I say about anchoring is correct, we could just use the term ‘grounding’ to apply broadly and generically. That, however, would mean rewriting key aspects of the grounding relation that philosophers have worked hard to arrive at over the last decade. “Anchoring,” says Schaffer, “paddles, waddles, and quacks like a grounding relation.” But it doesn’t: as I discuss in the following pages, anchoring behaves differently and plays a different explanatory role in metaphysics.

### 3. The modal argument for the distinction

As Schaffer notes, the fundamental argument I give for rejecting conjunctivism (*The Ant Trap*, 123ff.) is that it gets the grounding conditions of certain facts wrong. And the place these mistaken grounding conditions show up is when we consider social facts *across possibilities*. Consider a fact like **Mladic is a war criminal**. What is the modal signature of that fact? What needs to be the case in other worlds in order for that fact to obtain? The grounding conditions for **Mladic is a war criminal**, I argue, only include such facts as **Mladic committed such-and-such atrocities in the context of armed conflict**. Even in worlds in which there is no Geneva Convention and no International Criminal Court, there can be war criminals.

In *The Ant Trap*, I pointed out that we can ask about Julius Caesar and Genghis Khan whether they are war criminals. The idea was to illustrate that the kind *war criminal* is a “universal tool”—i.e., a kind that we set up in a “context of anchoring” and that gets instantiated in “contexts of obtaining.” In those contexts of obtaining, it is not relevant whether the anchors hold: universal tools like the kind *war criminal* are set up by factors in the context of anchoring, and the tools are then instantiated in any context.

On their own, those cases are not yet sufficient to show that grounding and anchoring are distinct. After all, Julius Caesar and Genghis Khan were real people in the actual world: the contexts where they performed atrocities occurred in other times and places, not other possibilities. Those cases do, however, help see that social kinds are carved out to apply not just in our own context, but in other contexts as well. This point is a standard one in sociology and anthropology. The categories *class*, *caste*, *aristocrat*, and *serf*, for instance, have complex boundaries and are anchored by a range of facts about societies in the actual world. But the

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conjunctivism is whether the anchoring facts are always (or ever) among the grounds, so the key controversy is the one Schaffer highlights.

context in which they are anchored is not the only context to which they can apply.

Anthropologists sometimes speak of “emic” versus “etic” work on cultures: an “emic” treatment is one that employs a culture’s own categories to analyze that culture, while an “etic” treatment analyzes features of one culture using the categories of another (for instance, those of the anthropologist).<sup>9</sup> The reason “etic” analysis is possible is that the factors that anchor the kind need not be present in order for that kind to be present.

Grounding and anchoring differ with regard to their modal behavior, and thus the argument for dividing anchoring from grounding will be based on facts in other possibilities, not just other times and places. We commonly apply kinds like *war criminal* to other possibilities: *had Hitler been raised differently, would he have been a war criminal? Using a rational choice model, how could incentives have been modified so as to reduce the incidence of war crimes in the Syrian conflict?* The issue, then, is whether a person’s belonging to the kind *war criminal* in a world *w* requires that the anchors for *war criminal* obtain in that world *w*. Or instead, is it sensible to speak of the incidence of war crimes across possibilities, regardless of whether the anchors for *war criminal* obtain in those possibilities? I say that the latter is sensible; it is how constructed social kinds work as “universal tools.” This can be stated as the following thesis:

(UNIVERSALITY) Given a social fact of the form ***x is K*** whose grounding conditions are anchored by actual facts ***A1...An***. The fact ***x is K*** can obtain in other worlds even where ***A1...An*** fails to obtain.<sup>10</sup> In other words, the actual anchors set up a “universal tool” that can be instantiated across contexts of obtaining.

One sort of conjunctivist would deny UNIVERSALITY. She would insist that the modal phenomenon I’ve identified never occurs: there are only war criminals where there are anchors for the kind *war criminal*. In a world without the Geneva Convention, for instance, there simply is no such thing as a war criminal, regardless of the atrocities perpetrated. According to that conjunctivist, the atrocities perpetrated by *x* are only the partial grounds of the fact ***x is a war criminal***, and the full grounds need to obtain in a world for the fact to obtain.

Schaffer is not that sort of conjunctivist. Commendably, he accepts my observation that UNIVERSALITY is routine for social facts and kinds. Yet Schaffer remains a conjunctivist. His two strategies—the relations reply and the definitions reply—are designed to retain his “grounding only” view in the face of UNIVERSALITY.

#### 4. On “exporting”

To set up his replies, Schaffer presents my argument in three steps, and to do that he introduces the term ‘exporting’. The idea is this: suppose we have a plurality of facts ***G1...Gn***, and suppose they are all facts about a particular context. Suppose, for instance, that ***G1...Gn*** are facts about the actions of individual people in Michigan in 2016. Now take a different fact ***f***,

<sup>9</sup> I am grateful to Katherine Hawley for raising this distinction in connection with her comments on anchoring (Hawley 2019).

<sup>10</sup> It should also be added that there is also no substitute set of anchors ***A1’...An’*** in *w*.

which is a fact about something occurring later and away from Michigan, such as **President Trump signed a spending bill in 2019**. The idea that grounding “exports” across *times* is that facts like  $G_1 \dots G_n$ —i.e., facts about the temporal context 2016—can be among the grounds of facts like  $f$ —i.e., facts about the 2019 context. The idea that grounding “exports” across *places* is that facts like  $G_1 \dots G_n$ —facts about Michigan—can be among the grounds of facts like  $f$ —i.e., facts about the Washington context. And the idea that grounding “exports” across *possibilities* is that facts like  $G_1 \dots G_n$ —facts about the actual world—can be among the grounds of facts in other possible worlds. He then presents the argument as the following inference:

1. Anchoring exports across times, places, and possibilities.
2. If anchoring is grounding, then anchoring would not export across times, places, and possibilities.
3. Therefore anchoring is not grounding.

In a sense this presentation is useful: Schaffer is right that my modal argument involves denying that certain facts about the actual world (such as facts about the Geneva Convention) are among the grounds of facts of the form  $x$  is a **war criminal** in other worlds. And therefore anchoring is not grounding.

This presentation, though, has a few issues to clear up. The first of these is Schaffer’s mention of times and places in step 2. As is obvious even from the Trump example I just mentioned, grounding of course “exports” across times and places. This is a point I make repeatedly in *The Ant Trap*, since it is central to the anti-individualist theme that runs throughout the book.<sup>11</sup> So my argument does not involve any sort of claim that grounding is either “time-bound” or “place-bound”; rather, it involves the idea that grounding is “*world-bound*” in a way that anchoring is not.

Second, there is a problem with Schaffer’s use of “exporting” in the argument: it treats grounding as being a more metaphysically intimate relation than it is. Consider, for instance, the familiar example of a particular grounded by a universal, e.g., **The earth and sun attract one another with a force proportional to their masses** being grounded by **Any two bodies attract one another with a force proportional to their masses**.<sup>12</sup> When a plurality of facts  $G$  grounds a fact  $f$ , that does not imply that  $G$  is somehow limited to  $f$ . Grounding is a kind of *sufficient* metaphysical explanation: so long as the explanatory connection is tight enough, the “boundaries” of the grounded output do not circumscribe those of the grounds. We need to be careful when talking about the bounds on what grounds what: there is very little to restrict what the grounds of a given fact *can* include. And thus it may be almost trivial to regard grounding and anchoring to “export” in various ways. But that is not what either of us is after: our argument is about whether other-worldly facts are *required* for grounding certain facts that obtain in a given world. This means that “exporting” is not quite the right notion for casting our disagreement.

<sup>11</sup> See pages 153-163, 182-193, 236-249.

<sup>12</sup> Rosen 2010, pp. 119-20.

Third, using his argument structure Schaffer says that one of his replies (the definitions reply) rejects step 1—that anchoring exports across possibilities—and the other (the relations reply) rejects step 2—that grounding fails to export across possibilities.<sup>13</sup> But it may not be apparent why his two replies amount to rejections of these steps. It is helpful to break out the claims of my argument in even a little more detail than Schaffer does.

## 5. Clarifying the structure of my argument and Schaffer’s replies

My modal argument can be stated simply: non-modal facts have non-modal grounds, yet facts about the *actual* world are *required* for metaphysically explaining an aspect of non-modal facts obtaining in *other* worlds. This implies that there is a kind of metaphysical explanation that is not grounding—that is, the “anchoring” relation is distinct from grounding.

To divide this argument up into theses we might debate, we can begin with these two (using the war criminal example for illustration):

1. (ANCHORS METAPHYSICALLY EXPLAIN) Certain facts about customary state practices, historical cases, the Rome Statute, etc. (call them facts *AI...An*) stand in a metaphysically explanatory relation to the fact **Mladic is a war criminal**.
2. (UNIVERSALITY [instance of general thesis stated above]) There is a world *w* in which Mladic is a war criminal, and yet in which none of the facts *AI...An* (nor any substitute anchors) obtain.

As I mentioned above, Schaffer agrees with the second of these—the observation that facts about *war criminal* can obtain even in worlds in which the anchors do not. What Schaffer’s “definitions reply” denies is the first of these two theses: it denies that facts *AI...An* figure into an aspect of the metaphysical explanation of **Mladic is a war criminal**. Instead, the definitions reply holds that facts *AI...An* figure into the definition of an actual term in English; they are pertinent to the metasemantics of ‘war criminal’, not to the metaphysics of **Mladic is a war criminal**.

Two other steps of my argument are pertinent to Schaffer’s “relations reply”:

(NON-MODAL) The fact **Mladic is a war criminal** is a non-modal fact.

(SUFFICIENCY OF WORLDLY GROUNDS FOR NON-MODAL FACTS) If a non-modal fact is grounded (i.e., not fundamental), then it is fully grounded by some plurality of non-modal facts.

Schaffer says that his “relations reply” rejects the claim that grounding fails to export across possibilities. But the details of the relations reply involve a diagnosis of when grounding *does* export across possibilities: namely, when the grounded fact involves a relational property and one of the relata includes modal facts. Thus Schaffer accepts my fourth step, i.e., that non-modal facts obtaining in a world do have some set of non-modal grounds in that world. What his relations reply denies is NON-MODAL, that **Mladic is a war criminal** is a non-modal fact.

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<sup>13</sup> I’ve eliminated the references to times and places to avoid the first issue I just mentioned.

Instead, the “relations reply” insists that despite appearances, the fact **Mladic is a war criminal** hides a modal relatum under the covers.

In presenting this argument, I am attempting to be charitable to Schaffer, but it has struck some readers that I am being too charitable. In his “relations reply,” Schaffer argues that, for modal facts, grounding exports across possibilities. That is to say, a modal fact that obtains in world  $w$  is partly grounded by a fact in some other world  $w'$  that does not obtain in  $w$ . The problem is that this seems to be a violation of the factivity of grounding.<sup>14</sup> Thus I may too charitable in putting forward the SUFFICIENCY OF WORLDLY GROUNDS FOR NON-MODAL FACTS, as opposed to the sufficiency of worldly grounds for *all* facts, not just non-modal ones. And that might render Schaffer’s argument for hidden modal relata moot. But I’ll stick with the perhaps-overly-charitable response: I would prefer to avoid controversies over how modal facts are grounded, and over how one might reconcile the factivity of grounding with modal realism. I think it is more on-point to show that even overlooking this problem, Schaffer’s relations reply is untenable.<sup>15</sup>

## 6. On the relations reply

According to Schaffer’s “relations reply,” what may appear to be social properties are really social relations. *War criminal*, for instance, may appear to be a monadic property, but in fact it is a binary relation between the holder of the property and a set of social rules or standards which may be rooted in a different time, place, or world. The logical form of the proposition *Mladic is a war criminal*, then, is *War-criminal*(Mladic, Rule\_war-criminal@U.S.,2019), where *War-criminal* is a binary relation between a person and a rule, Mladic is a person, and Rule\_war-criminal@U.S.,2019 is the actual local current rule about which acts suffice to make a person a war criminal. There is no property *being a war criminal* simpliciter, according to Schaffer’s relations reply. No social properties, according to Schaffer, are properties simpliciter. They are all relations of this sort.

Schaffer explains the claim using the example of an extrinsic property, *being taller than Schaffer*. Schaffer points out that Robert Wadlow of 1940 has the property *being taller than Schaffer*, and also says that the fictional character Hagrid also has the property *being taller than Schaffer*. The property *being taller than Schaffer* is extrinsic, so it is unproblematic that part of the grounds for the fact **Wadlow is taller than Schaffer** is a fact about 2019, and part of the grounds of **Hagrid is taller than Schaffer** is a fact about Schaffer’s height in the actual world (which is a different world from the Harry Potter world). According to Schaffer, the property *being a war criminal* is analogous: it involves a relation between two things, one of which (the

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<sup>14</sup> One of the most basic features of grounding, as it is treated in the literature, is that grounding is factive: If  $G$  grounds  $f$  in  $w$ , then both  $G$  and  $f$  obtain in  $w$ . It may also be possible to make sense of a non-factive sense of grounding, and there is some debate over whether factive or non-factive grounding is more fundamental or basic. See Fine 2012; Litland 2015.

<sup>15</sup> I am indebted to Alex Skiles and Dilip Ninan for raising and discussing this point.



person) may be in one world and the other (the rule) in a different world. With extrinsic properties, says Schaffer, cross-world grounding is routine.<sup>16</sup>

### On hidden relata

Even putting worries about cross-world grounding to the side, this “relations reply” is unattractive *prima facie*. Certainly many social properties at least *seem* to be properties, not families of properties or binary relations. When we consider socially constructed properties such as *being a man*, *being a woman*, *being a statue*, *being a lamp*, *being an auction*, *being a stock option*, *being a peasant*, or *being nuclear war*, we recognize that these properties are the products of society, practices, and so on. But constructed as they are, they are simply properties. The property *being a lamp*, for instance, is plausibly extrinsic: for an object to be a lamp perhaps requires that a creator have had the intention of producing an object that generates light. Thus the grounding conditions for the fact ***x is a lamp*** involve facts about *x*’s history and creation as well as facts about its intrinsic structure. So in that sense, one might (somewhat perversely) regard *being a lamp* as a relational property between the intrinsic properties of an object and its history. But none of this is to say that *being a lamp* is a relational property between an object-together-with-history and *a set of standards*. Yes, the contours of the property *being a lamp* are products of social practices, but that does not imply that the contours change in any context where the social practices do. When we look for lamps across places, times, and possibilities, we do not change our standards as we move around. To be sure, it would have been possible for us to socially construct a different property—*being a shlamp*, perhaps—had our artifact-involving practices been different. But that is a different property: schlamphood is not what we assess as we traverse contexts to hunt for lamps. Similarly for the other socially constructed properties on the list above.

So from the start, the “relations reply” looks to be an uphill battle for Schaffer. Unfortunately the problems only mount from there.

### On extrinsic properties and cross-world relations

A key move Schaffer makes is to claim that it is typical of extrinsic properties that they involve cross-world relations, so it is no problem to see social properties as doing the same. Schaffer introduces the Wadlow and Hagrid cases to argue this. But these cases are more problematic for Schaffer than he seems to think. A closer look makes it clear that extrinsic properties do not typically behave as Schaffer suggests, and especially unlikely is the idea that there are simple extrinsic properties the possession of which is cross-world dependent.

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<sup>16</sup> Schaffer also raises the case of U.S. Dollars to discuss the relation and definition replies. In *The Ant Trap*, I do use dollars as a toy example, giving Searle’s analysis for illustrative purposes. But neither Schaffer nor I think that this is the correct treatment of the nature of dollars; it is only useful because it is simple and familiar. Unfortunately, in his discussion of the relations view Schaffer makes substantive claims about counterfactuals involving dollars, without moving away from toy analysis. What sort of kind is dollar? Is it a functional kind, so that being a dollar in a context is a matter of performing its function in that context? Is it a matter of having certain features, or a certain history, or a process by which it was produced? These get mixed up in the intuitive cases Schaffer asks us to assess.

Before considering the property *being taller than Schaffer*, consider the *taller than* relation, and to begin, consider utterances of the form “*x* is taller than *y*.” It is easy to assess such utterances when *x* and *y* are two objects that exist at the same time and in the same world (and of course typically in different locations), such as “LeBron James is taller than Schaffer.” But in comparing objects that exist at different times—e.g., “Wadlow is taller than Schaffer”—it is not so clear that the expression is felicitous. Better to say “Wadlow *was* taller than Schaffer *is*.” A natural way to understand this is that the *taller than* relation is tenseless, and it stands in relation to persons-at-times. So the proposition *Wadlow was taller than Schaffer is* should be understood as *There is a time  $t < \text{present}$  such that the height of Wadlow-at- $t > \text{the height of Schaffer-at-present}$* . The fact corresponding to that proposition, then, is presumably grounded by facts about times *t* and the present, and as Schaffer suggests, this is unproblematic.<sup>17</sup> Things get more complicated, though, in interpreting the property *being taller than Schaffer*. Perhaps it applies to a person-at-a-time, such as Wadlow-at-*t*. But even if so, how are we to interpret “Wadlow has the extrinsic property *being taller than Schaffer*”? What are the respective times for Wadlow and Schaffer? And how exactly does time figure into the property *being taller than Schaffer*, or is that property tenseless, and hence itself a relation between a person-at-a-time and a time? From the perspective of the extrinsic involvement of temporal facts, this case is not so simple as Schaffer suggests.

For non-existent entities, matters are more complex still. Take a person—call her ‘Alice’—who exists in some world *w* but not in the actual world. What, then, is expressed when we say “Alice is taller than Schaffer”? Here are some candidates: *Alice, were she to exist in the actual world, would be taller than Schaffer is in the actual world*; or, *If Schaffer were to exist in  $w$ , then Alice in  $w$  would be taller than Schaffer is in  $w$* ; or, *Alice in some particular one of the worlds in which she exists is taller than Schaffer is in the actual world*; or any of dozens of other readings? This starts to make it clear why Schaffer chose a fictional character, Hagrid. But of course the nature of fictional characters is even thornier than non-existent people.

Many theorists of modality hold that atomic predicates in a world only apply to objects that exist in that world. On that view, we certainly can compare the heights of objects across worlds, but it is not simple predicates (like ‘is taller than’) that express those relations. Rather, the point of our having modal language is to compose complex expressions in order to say such things. Schaffer seems to expect us to interpret the sentence “Hagrid is taller than Schaffer” as: Hagrid’s height in the unique world in which he exists is greater than Schaffer’s height in the actual world. As I just suggested, this is far from the only interpretation one might have of this sentence, and it is not clear that it is the most plausible one. But even if it is, then the sentence is elliptical and the proposition it expresses is a complex one involving two modal components.

The point is this: Schaffer suggests that it is typical of extrinsic properties that they involve cross-world relations, but this is certainly not true. At least for properties named by simple

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<sup>17</sup> I am grateful to Dilip Ninan for discussion of this and connected issues.

predicates, it is not clear that there is even a single example of this sort. Slightly more typical—as I discuss in *The Ant Trap*—are properties involving cross-temporal relations. For instance, the fact **This is a lamp** is partly grounded by an intentional act of a creator in the lamp’s past, **That is a footprint** is partly grounded by a mark having been made by a foot in the past, and **Trump is President** is partly grounded by the votes of the Electoral College in the past. But there are reasonably strong limits to the kinds of properties we should expect to behave this way. The examples I’ve mentioned are properties that *require* cross-temporal grounding. For other properties, like the *taller than* relation and perhaps the *being taller than Schaffer* property, the involvement of cross-temporal relations is generally not “hard-wired” into the property (that is, not into those named by simple predicates, as opposed to those specified by complex predicates explicitly involving reference to times).

*A fortiori* for cross-world relations. Schaffer’s “relations reply” holds that social properties behave unlike any extrinsic property we thought we knew.

### The jumpy shiftiness of Schaffer’s relations

The relations reply has another problem: the modal behavior of Schaffer’s social relations does not match that of real social properties. According to Schaffer, social properties are really relations between objects and social rules. Whether or not an object has a given property, then, depends on which social rule is operative in the circumstance. For a given social property, which social rule is operative? Since the relationality is supposed to do at least some work, it must be that the applicable rules can shift from context to context. In one context the social property *being the bourgeoisie*, *being a woman*, *being a lamp*, *being plaid*, *being a war criminal* conforms to one “social rule” and in another context it conforms to a different rule. Perhaps this is how it goes: in many contexts it is *our* social rule that governs the instantiation of the social relation. Social relations are perhaps usually “etic.” That is, unless the community in which it is instantiated has its own rule governing that social property. In that case, perhaps the social rule “snaps” to be the social rule anchored in their world? Or perhaps it is even jumpier than that: perhaps the “social rule” parameter that governs certain contexts is set up by facts in nearby contexts, or perhaps contexts cluster in some way? Sometimes the rule is the local one, sometimes that of the neighbors, sometimes ours? It is not clear what the modal algorithm is for looking around contexts and determining how the “social rule” parameter is meant to jump from standard to standard, sometimes being shiftily (or diagonalized), at other contexts snapping to the actual social rule, and other contexts snapping to some different rule.

But however it works, this kind of jumpy shiftiness is a bug, not a feature. The grounding conditions for many social properties do not shift, jumpily or otherwise. Given a particular way a property like *being a war criminal* or *being a barista* is anchored, the instantiation conditions do not shift or jump around. Just as we can assess whether there are baristas in Italy (an “emic” analysis because it happens that the context of obtaining is the same as the context of anchoring), we can equally assess whether there are baristas in Ancient Egypt (an “etic” analysis using a kind anchored by contemporary practices). As we search for baristas across contexts, the conditions

for being a barista do not change regardless of the context. We also, of course, recognize that this kind might have been anchored differently, so we can consider a different frame: we consider a different set of anchors, perhaps those of the customary practices of a feudal society or those in a different possible world. Those anchors set up a different social property, and we track that property across all possible contexts of obtaining. And here again, as we traverse contexts of obtaining, the instantiation conditions do not jump around. Rather than being jumpy-shifty along one contextual dimension, the grounding–anchoring model distinguishes two metaphysical dimensions—shifts in contexts of anchoring and shifts in contexts of obtaining.

Schaffer’s relations view does make room for UNIVERSALITY. But the contortions it proposes to reconcile UNIVERSALITY with conjunctivism generate more problems than they solve. Social kinds are not complexly composed modal relations, any more than non-social properties are.

## 7. On the definitions reply

Schaffer’s “definitions reply” is a different strategy for retaining conjunctivism in the face of UNIVERSALITY. In that reply, Schaffer agrees to UNIVERSALITY but provides a different diagnosis:

One can agree with Epstein that this clearly crosses worlds, in that it makes sense to ask whether people are war criminals, even in imagined situations in which the Geneva Conventions and/or the ICC does not exist... the definitions reply treats *war criminal* as having been introduced by stipulative definition, and so treats it as *analytic* that Hitler in this scenario counts as a war criminal...The definitions reply then concludes that the clear cases of exportation should be treated not as cases of grounding at all but rather as cases of stipulative definition. (Section 3.3)

Thus this reply amounts to a rejection of the claim that the anchors are part of the metaphysical explanation of the fact **Hitler is a war criminal**. The Geneva Convention/ICC, according to this view, figures into the metasemantics of ‘war criminal’, but not to the metaphysical explanation of the fact. (As Schaffer notes, this “definitions” view was also advocated by David Chalmers in discussions with Schaffer and me, and Kit Fine has independently put forward a version of it in private communication.)

The idea behind the definitions reply is not a new one. It dates perhaps as far back as Locke’s distinction between nominal and real kinds, and it also comes up in the externalism literature where Schwartz, Abbott, and others react to claims by Putnam and Kornblith regarding such kinds as pencil and carburetor.<sup>18</sup> This view holds that some kinds are *real kinds*, whose essential properties typically need to be discovered through empirical investigation. Other kinds are endowed with their essential properties through the associations of ideas (in the Lockean treatment) or by linguistic definitions, i.e., by descriptively stipulating the meaning of a term and hence stipulating what the conditions are for an object to fall under the corresponding “kind.”

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<sup>18</sup> Putnam 1975; Schwartz 1978, 1980; Kornblith 1980; Abbott 1989.

The essential properties of these kinds are typically knowable *a priori*. The kind *war criminal*, asserts Schaffer, is a case of this latter sort.

### On stipulative definitions

Schaffer correctly notes<sup>19</sup> that Article 8.2 of the Rome Statute of the International Criminal Court purports to define ‘war crimes’, so it might seem as though this is enough to prove his point. But as I noted in section 1, statutory definitions are not quite what they seem. This is even recognized explicitly in the Rome Statute itself. In Article 21, the authors lay out a range of principles for deriving the law from features apart from the written statutes.<sup>20</sup> Above I gave a long, bulleted list of such features, but the most obvious ones are customary practices (which need not be known by anyone until they are investigated), and judicial decisions (which are known and transcribed, but which do not show up in statutes). Articles 21 and 8.2 would be contradictory, if 8.2 really did give a stipulative definition. But the authors of the Rome Statute were aware that statutory “definitions” are not stipulative definitions in the philosopher’s sense, and they certainly are not analytic.

There is no way to sugar-coat the point: the claim that *war criminal* is a stipulatively defined kind is simply not true. Nor is it true that its essential properties are knowable *a priori*. Rather, *war criminal* is a real (social) kind just like any other: the kind serves as a “reference magnet” for the term ‘war criminal’; the purported definition given in the Rome Statute is a useful way of singling out or pointing to that real kind, but is only one of many factors that contributes to anchoring the kind. To be sure, the “definition” in the Rome Statute is more than just a characterization or a dictionary definition: section 8.2 of the Rome Statute is part of what anchors the kind. But again, it is just one of many anchors.

### On representational devices more generally

Now, one might ask why Schaffer cast his definitions reply in terms of *stipulative* definitions, rather than taking a broader perspective on how linguistic terms or other representational devices might be introduced. Instead of saying that cases of exportation involve stipulative definition, it seems that one might hold that cases of exportation involve the introduction of representational devices by whatever manner (e.g., ostensive definition, teleosemantic introduction, etc.) And then one might hold that the fact that *war criminal* is a real kind is parasitic on there being such a representational device.<sup>21</sup>

There may be good reasons Schaffer restricts his “definitions reply” to stipulative definitions. The way a representational device is introduced non-stipulatively, for instance, may involve a “candidate for reference” that has already been anchored.<sup>22</sup> In which case, the definitions reply would buttress ANCHORS METAPHYSICALLY EXPLAIN, rather than denying it.

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<sup>19</sup> Footnote 27

<sup>20</sup> This is discussed in several articles in Cassesse et al. 2002; see especially Volume II, sec. 5, 25.

<sup>21</sup> I am grateful to Dan López de Sa for raising and discussing this issue.

<sup>22</sup> Epstein 2004, pp. 141-160, 169-180.

But we do not even need to consider these reasons, since we can easily find cases in which UNIVERSALITY holds and yet where there are no representational devices at all. Part of the job of sociologists and anthropologists is to discover social kinds that have hitherto gone unnoticed and unnamed. And many such kinds exhibit the same universality we saw in connection with *war criminal*.

Consider, for instance, foods that are taboo within a particular community. One example might be the social kind *unkosher food*. Certain animals, methods of preparation, and combinations of foods are proscribed in the Jewish community. Pigs, for instance, are unkosher no matter how they are prepared, and hence ham sandwiches (since they are made from pigs) are also unkosher. How is *unkosher food* anchored? Perhaps by divine command, perhaps by centuries of rabbinical decisions, perhaps by the beliefs of the community, perhaps by community practices, or perhaps by several or all of these. As in the *war criminal* case, there are worlds in which facts of the form ***x is unkosher*** obtain, and yet in which none of the anchors (nor any substitutes) do. Imagine a colony of pigs in a world that never had people: even so, those pigs are unkosher.

The kind *unkosher food*, of course, does have representational devices denoting it. So consider a similar kind that does not. Consider foods that are proscribed or taboo in the United States. Anthropologists have long recognized that nearly every culture has food prohibitions, even if the culture do not recognize them as such. In the United States, it is taboo to eat cats, dogs, certain rodents, most insects, certain offal, human corpses, and so on. We could introduce a term for such foods—perhaps ‘un-American food’—but here we are baptizing a new term to denote an existing kind. To ascertain the boundaries of the kind, we would need to consult an anthropologist, who in turn would have to do field work. What are the anchors of *un-American food*? Again we need to look to practices, attitudes, reactions, beliefs, and so on in the United States for the factors that make it the case that it has the boundaries it does.

Pigs are unkosher but not un-American; certain grasshoppers are un-American but not unkosher. But despite these differences, both are similar social kinds. And as with *unkosher food*, UNIVERSALITY holds for *un-American food* as well. A possible world inhabited only by dogs, only by rats, or only by corpses, is replete with un-American (and unkosher) food, even though there never were any Americans.

The grounding conditions for ***x is un-American food*** are nearly the same as those for ***x is unkosher food***: neither involves among the grounding conditions that the anchoring facts obtain. Yet if the Schaffer-Chalmers thesis were correct, this would be impossible. *Un-American food* was a social kind long before I wrote this paper and introduced the term, and long before anthropologists had even come up with the idea of cultural taboos. But according to Schaffer-Chalmers, without a representational device that kind would not be a “universal tool,” so its modal profile would have to look radically different than it in fact does. On the Schaffer-Chalmers view, *kosher food* and *un-American food* have radically different grounding conditions. Despite the eating of corpses being taboo in similar ways to both the Jewish

community and the American community, the world inhabited only by corpses would have lots of unkosher food, but no un-American food. Thus on the Schaffer-Chalmers view, when anthropologists treat the two kinds in the same way, they are radically mistaken about one of them.

In my view matters are simpler. Social kinds like *war criminal*, *unkosher food*, and *un-American food* are all real kinds, and the grounding conditions of these kinds are the straightforward ones that social scientists would describe and use in their models. The fact that a sandwich is made of ham, which is made of pig, is sufficient to fully ground the fact that the sandwich is unkosher. And there is no sharp break between this kind and the kind *un-American food*. The fact that a sandwich is made of rat-meat is sufficient to fully ground the fact that it is un-American food. Profiling the contours of taboo foods like these is what is involved in characterizing the grounding conditions of ***x is unkosher food*** and ***x is un-American food***. The practices, attitudes, and environmental factors that anchor those kinds are part of their metaphysical explanation—that is, the part that explains what sets the kinds up as they are—and that is a matter for a different part of the inquiry pursued by social science.

Schaffer himself has actually expressed reservations about the definitions view, based on a point raised by Asya Passinsky. Passinsky has pointed out (p.c.) that kinds only count as socially constructed for Schaffer if their anchors figure into their metaphysical explanation. A stipulatively defined kind, then, is not socially constructed for Schaffer. Endorsing the definitions reply, then, would preclude gender kinds, racial kinds, legal kinds, and so on from being socially constructed. Reasonably enough, Schaffer is reluctant to endorse that conclusion, so he does not currently see the definitions reply as the best way to go.

## 8. Wrapping up

Schaffer's paper is rich and detailed, and I have had to limit these comments to his direct arguments and proposals pertaining to the distinctness of anchoring and grounding. I do want to note, however, that anchoring is not limited to social facts or "social construction." I do, in *The Ant Trap*, restrict my discussion to social facts. But that is only to keep the topic focused: the distinction between grounding and anchoring is quite general. Even facts about natural kinds, like ***x is a sample of gold***, ***x is an electron***, ***x is a eukaryote***, and ***x is human***, have grounding conditions, and there are metaphysical reasons *why* they are real kinds and have the grounding conditions they do. Because I focus on social kinds in much of my work, I sometimes speak as though "anchoring" and "social construction" are interchangeable. But that is mostly so as to explain anchoring in the context of social ontology. Thus it should not be thought that the anchoring relation is "obscure" in its "invocation of a *sui generis* relation known only to social ontology." The anchoring relation is not limited to social ontology, nor is it "*sui generis*" in any sense that grounding is not.

I also want to acknowledge that the bar is high for making the grounding–anchoring distinction. To validate this claim—far-reaching as it is—requires strong evidence. Moreover,

the standard model of metaphysical possibility has been very successful, and lots of machinery has been developed to explore it. So the bar is also high for the two-dimensional model of possibility I propose, with contexts of anchoring separated from contexts of obtaining. In the abstract, it is nicer to have one dimension rather than two, and one metaphysical relation rather than two. But in these early days of work on determination, I think it is sensible not to value parsimony too highly. In particular applications (e.g., Epstein 2017, 2018), I have found the sharp distinction between anchoring and grounding to be valuable, and I take the utility of anchoring to be a mark in its favor. Still, the theoretical case also has to be made, as well as the pragmatic one. Schaffer has provided a generous and valuable service in raising these many challenges, and though I have argued that they ultimately do not succeed, they must be taken seriously by anyone looking deeply into social metaphysics, and into metaphysical determination more generally.

## REFERENCES

- Abbott, B. (1989). Nondescriptionality and Natural Kind Terms. *Linguistics and Philosophy*, 12, 269-91.
- Bederman, D. (2010). *Custom as a Source of Law*. Cambridge: Cambridge University Press.
- Cassese, A., P. Gaeta and J. R. W. D. Jones (Eds.) (2002), *The Rome Statute of the International Criminal Court: A Commentary*, Oxford: Oxford University Press.
- Epstein, B. (2004). *Simple Words and Subtle Things: Social Kinds and the Making of Reference*. In: S. University, ed.
- (2015). *The Ant Trap: Rebuilding the Foundations of the Social Sciences*. New York: Oxford University Press.
- (2017). What are social groups? Their metaphysics and how to classify them. *Synthese*, <https://doi.org/10.1007/s11229-017-1387-y>.
- (2018). *Biko on Non-white and black: Improving social reality*. In G. Hull (Ed.), *Debating African Philosophy: Perspectives on Identity, Decolonial Ethics and Comparative Philosophy* (pp. 97-117). New York: Routledge.
- (2019). Replies to Hawley, Mikkola, and Hindriks. *Inquiry*, 62(2), 230-46.
- Fine, K. (2012). *Guide to Ground*. In F. Correia and B. Schnieder (Eds.), *Metaphysical Grounding: Understanding the Structure of Reality* (pp. 37-80). Cambridge: Cambridge University Press.
- Hart, H. L. A. (1961). *The Concept of Law*. Oxford: Clarendon Press.
- Hawley, K. (2019). Comments on Brian Epstein's The Ant Trap. *Inquiry*, 62(2), 217-29.
- Kmiec, K. (2004). The Origin and Current Meanings of Judicial Activism. *California Law Review*, 92(5), 1441-78.
- Kornblith, H. (1980). Referring to Artifacts. *Philosophical Review*, 89, 109-14.
- Litland, J. E. (2015). Grounding, Explanation, and the Limit of Internality. *Philosophical Review*, 124(4), 481-532.
- Mikkola, M. (2019). Grounding and anchoring: on the structure of Epstein's social ontology. *Inquiry*, 62(2), 198-216.



- Putnam, H. (1975). *The Meaning of 'Meaning'*. Philosophical Papers. Cambridge: Cambridge University Press.
- Rosen, G. (2010). *Metaphysical Dependence: Grounding and Reduction*. In B. Hale and A. Hoffman (Eds.), *Modality: Metaphysics, Logic, and Epistemology* (pp. 109-36). Oxford: Oxford University Press.
- Schwartz, S. P. (1978). Putnam on Artifacts. *The Philosophical Review*, 87, 566-74.
- (1980). Natural Kinds and Nominal Kinds. *Mind*, 89, 182-95.
- Schwarz, A. (2014). *War Crimes*. Max Planck Encyclopedia of Public International Law.
- Treves, T. (2006). *Customary International Law*. Max Planck Encyclopedia of Public International Law.