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John Searle's *The Construction of Social Reality*

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John Searle's *The Construction of Social Reality* is beguiling. It tempts one into an individualistic understanding of society and institutions, not by arguing so much as by telling a seemingly plausible individualistic story. That story has three main components: collective intentionality (collective intentionality is individualistic, because in spite of its we-content, it is always the intentions of individuals); functions and particularly a special subclass of agentive functions, namely status functions; and finally constitutive rules. In this discussion note, I focus on the third of these, an idea I have long felt to be problematic. The idea of constitutive rules is a theme that goes back to Searle's own 'How To Derive "Ought" From "Is"' (1964) and *Speech Acts* (1969), and before that to John Rawls' 'Two Concepts of Rules' (1955).

First, in my view, what Searle construes as a distinction between two kinds of rules is, on his own analysis, really a distinction between two kinds of action descriptions. I do not dispute that there are rules with the form that Searle attributes to so-called constitutive rules: 'X in circumstances C counts as Y'. So I am unclear whether my first point about the constitutive v. regulative rule distinction will matter to his construction of social reality. However, I have long been sceptical of this distinction, and it is a scepticism I want now to air.

What is the alleged contrast between constitutive and regulative rules? A regulative rule 'regulates', but *merely* (Searle's word) regulates, a type of behaviour which is logically independent of those rules. Constitutive rules also regulate, but they do more as well: 'they create or define new forms of behavior' (*Speech Acts*, p. 33) which could not possibly exist independently of those rules. 'Create' is a metaphor in this context, and there is no clear sense in which rules can define or regulate anything; persons regulate or define.

These characterisations of the distinction are, as Searle admits, 'rather vague' (*SA*, p. 35). One of the ways in which Searle tries to make this more precise is this. Consider these two action sentences: 'He sent out the invitation at least two weeks in advance' ('He R-ed') and 'They played football'

(‘They C-ed’). There may be a rule of etiquette specifying advance notice for invitations, but from the fact that some person R-ed, it does not logically follow that *any* rules exist which regulate his R-ing (SA, p. 35). (Searle actually says that it does not logically follow that *that* rule exists, but he needs the more general claim in order to set up the contrast he needs with constitutive rules.) On the other hand, Searle claims that ‘if there were no rules of football..., there is no sense in which their behavior could be described as playing football’ (SA, pp. 35–36), so from the fact that they C-ed, it logically follows that *some* set of rules exist that regulates their behaviour.

But of course ‘It is possible that twenty-two men might go through the same physical movements as are gone through by two teams at a football game...’ (SA, p. 35). It is just that such movements could not be described as their C-ing. So whether or not there is this entailment from action (their C-ing) to the existence of rules depends not on the action itself, but is relative to the description that one offers of the action.

Call an action description that entails the existence of rules a ‘rule-involving action description’. What Searle provides is an account of two different types of action descriptions, namely rule-involving and non-rule-involving ones. Just as actions are intentional or nonintentional, basic or nonbasic, only relative to a description, so too actions are *not* rule-involving or non-rule-involving per se, but only relative to a description. The distinction Searle has in mind marks no difference in types of rules, but only between types of action descriptions.

But might not one derive a distinction between types of rules from this? Perhaps not all rules are related to action descriptions in the same way. Clearly, some rules, or sets thereof, are such that there is at least some action description that entails their existence (e.g., ‘playing football’). If there are some rules such that there is *no* action description which entails their existence, then that might give us a basic asymmetry with which to draw a distinction between kinds of rules. The first might be what Searle wants to call ‘constitutive rules’, the latter ‘regulative rules’.

The problem with this approach is that there simply are no rules meeting the second requirement; for every rule or set thereof, trivially there is some action description which entails its, or their, existence. Consider the rule of etiquette that Searle uses as a paradigm regulative rule: send out invitations at least two weeks in advance. Further consider the predicate, ‘send* an invitation’. ‘Send* an invitation’ means just what ‘send an invitation’ means, except from the fact that x sent* an invitation, it follows that there are some rules that regulate that behaviour.

The truth of the matter is just this: some action descriptions are rule-involving and some are not. ‘Send an invitation’ is not; ‘play football’ is. There may well be rules (like the one about the etiquette of invitation sending) such that their existence is entailed by none of the *actual* action descrip-

tions we happen to use, but, if so, that is a matter of contingent happenstance. This seems to me to be all there is to the constitutive v. regulative rule distinction. Since there may well be rules having the form, 'X in C counts as Y', this may be enough for Searle's project of social construction, but my explication of the alleged distinction between two kinds of rules does seem to undermine the importance Rawls gave to the distinction, in his early attempt to formulate a credible version of rule utilitarianism.

I want to raise a second, and quite different, issue about Searle's use of constitutive rules. The difficulty is this. The form of a constitutive rule, according to Searle, is 'X in C counts as Y'. For example, these bits of paper, physically described, count as money, an institutional fact. Although the ways in which these rules interlock and iterate can be very complicated (*CSR*, pp. 80–82), in the final analysis there is a 'logical priority of brute facts over institutional facts': 'eventually one has to reach rock bottom of something that is not itself any form of status-function' (*CSR*, pp. 55–56).

Searle means by this (I take it) that eventually there must be at least some constitutive rules such that whatever occupy the 'X' and 'C' terms name brute, i.e., neither institutional nor social, facts, and whatever occupies the 'Y' term names an institutional fact. Such a rule states that we have agreed (or accept) to count things with such-and-such physical features 'as having the status and function specified by the Y term' (*CSR*, p. 46). If brute facts are to have a logical priority over institutional ones, and so if there is to be any sense in which Searle offers an individualistic account of institutional (and social) facts, there must be at least some constitutive rules meeting this requirement.

I can find nowhere in the book where Searle offers a constitutive rule meeting this requirement. In particular, the main illustration on pp. 45–46 does not: certain pieces of paper (a) having particular material ingredients, (b) matching a certain set of patterns, and (c) issued by the Bureau of Engraving and Printing under the authority of the U.S. Treasury... 'counts as money, i.e., U. S. paper currency (Y term).' (a) and (b) provide physical, noninstitutional requirements that the pieces of paper must meet in order to count as money, but they are clearly insufficient, as Searle recognises. Such pieces of paper must be issued by the right authority, as (c) specifies, but (c) is patently a further institutional fact.

Amongst the facts required for any institutional fact, there will always be other institutional facts. Reference to institutions will *always* and *ineliminably* appear on the left-hand side of these rules with the form 'X in C counts as Y (where 'Y' is institutional)'. Chisholm's refutation of phenomenalism is instructive as an analogy (*Perceiving*, 1957, Appendix). Both the phenomenalist and Searle want to identity a set of facts (phenomenal, brute and nonsocial) which are meant to be sufficient (in Searle's case, though, only with our added agreement or acceptance) for another set of facts (physical

object, institutional). Chisholm's argument was that a physical object statement implied an appearance statement only when conjoined with a normal-conditions clause, which itself referred to physical objects, thereby rendering reference to physical objects ineliminable.

So too, I would argue that certain brute facts 'add up' to an institutional fact only when conjoined with a further institutional-conditions clause (like the one that specifies that the piece of paper is money only when issued by the Bureau of Engraving and Printing). In both cases, the need for the added clauses show us the impossibility of comprehending one set of facts wholly in terms of another: physical object facts cannot be analysed as only facts about appearances, and institutional facts cannot be understood only as collective agreement ranging over brute, nonsocial facts. Physical object facts in the one case, and institutional facts in the other, ineliminably creep back into the base, rendering these accounts circular.

Third, Searle speaks a great deal about the roles of agreement, acceptance, and collective imposition of function, in the creation and continued existence of institutional facts. In spite of his frequent references to these themes (see, for example, *CSR*, pp. 113–19), I cannot say that I fully grasp them. Acceptance is perhaps the easiest. Marriage and the current political system continue to exist partly because we accept them, where that might only mean that through inertia we have not bothered to destroy or replace these institutions. But agreement is more difficult, if it means anything more than acceptance. Indeed, it inherits all the ambiguities of a consent theory of society. Collective imposition of function is even worse. Did some group of persons ever have to do this consciously (for money, for example)? Unconsciously? If neither, is it just *as if* they had? Is it explicit, tacit, or hypothetical imposition (cf., consent)? Perhaps Searle's remarks on the Background (chapter 6) are meant to be helpful here. We need some more elaboration of these ideas from Searle.

Finally, I want to discuss briefly Searle's view that there is a logical priority of act over institutional object (*CSR*, pp. 56–57). Searle states the thesis, but does not really argue for it. In fact, his thesis is not just about logical priority at all, but is somewhat stronger: 'What we think of as social objects...are in fact just placeholders for patterns of activities' (p. 57). That is, Searle's view is reductive in some sense; social objects *are nothing more than* patterns of activities.

In explicating this view, Searle uses the example of money, which is a physical object, a bit of paper, given the 'higher level' social description, 'money': 'Such material objects as are involved in institutional reality...are objects like any others, but the imposition of status-functions on these objects creates a level of description of the object where it is an institutional object...' (p. 57). Searle's reductive view might be plausible with regard to such material-cum-social objects like money, victory cups, credit cards, and reli-

gious vessels and vestments. There are many other examples where the alleged priority cannot be explicated in this easy manner, namely cases involving social objects which do not seem to be material objects simply re-described in any straightforward way: the United Kingdom, the Bureau of Engraving and Printing, the AFL-CIO, the French working class, or the Icelandic Cabinet. To be sure, there is *some* relation between these social objects and various physical objects, but that relation does not seem to be identity. I have argued the case at length in my *The Metaphysics of the Social World* (1984), but cannot repeat those arguments here.

I can imagine a book, in some ways like Searle's, called *The Construction of Mathematical Reality*. In it, a plausible seeming story would be told about how mathematical reality can be constructed from various empirical facts, including peoples' counting and enumerating practices. We know that such a plausible seeming story would be all wrong, that the existence of numbers cannot be 'extrapolated' in this way from empirical data. In many passages of Searle's book, I felt that something similar was going on. Searle's is a sophisticated attempt to give an individualistic account of institutional reality. We have no good reason to believe that it can succeed.