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SEARLE AND THE CREATION OF SOCIAL NORMS

Abstract: John Searle's claim that institutional social reality, or what I call, normed social reality is established through a type of representation with the double direction of fit cannot be maintained in the light of Arto Laitinen's criticism to the effect that representations cannot have a double direction of fit. After presenting Laitinen's argument, I argue that the normed social reality is created by a collective statement of preferred normed collective action. I conceive normed collective action as a (necessarily) collective act of adding a normative aspect to some object, or an act that puts the actors in a normative relationship, stating which rights/ authorizations (etc.), i.e. obligations/duties (etc.) one agent has to another with regard to the object. In addition to not having a double direction of fit, the alternative speech act which I propose explains the fact that agents are willing to follow social norms and their expectation that social norms will be followed. At the end of the paper, I give a refined definition of normed social reality, from the resources of Searle's account, based on previous considerations and the identification of the perlocutionary force of such a speech act.

Keywords: John Searle, social reality, normed social reality, Arto Laitinen, speech acts, collective action, social norms.

Introduction

In *The Making of Social World: The Structure of Human Civilization* (2010) John Searle claims that institutional social phenomena are established, reinforced, modified and abolished linguistically, i.e. through speech acts. Searle makes a distinction between institutional and non-institutional social reality: institutional assumes norms of behavior, while non-institutional social phenomena consist of spontaneous social events. According to him, the kind of speech act that creates social norms is the status function declaration. These speech acts, Searle claims, have a double direction of fit: through them, the reality is simultaneously represented

and changed. Throughout this paper I will use the term “normed social reality” to denote institutional social reality according to Searle, because it brings out the subject of consideration more closely – social phenomena constituted and governed by social norms.

Arto Laitinen argues against the notion of representation with the double direction of fit, finding it internally inconsistent. Since I agree with his argument, I am forced to look for an alternative speech act that creates social norms in general. My thesis is that the speech act that creates social norms is a collective assertion of the preferred normed collective action for each collaborator. Being a theoretical representation the speech act I propose doesn't have the double direction of fit, so it is immune to Laitinen's objection. The solution I propose supports and is supported by two conspicuous features of typical social activity: agents are motivated to comply with social norms, and they expect that others will comply with the same social norms as well. I will label them Motivation and Expectation respectively.

The paper is organized in the following manner. In Section 1 I give an account of Searle's general theory of social norms. In Section 2 a general account of representations will be given. Section 2 introduces some notions that are necessary for understanding Laitinen's criticism. Laitinen's criticism will be presented in Section 3. Finally, in Section 4, I give my argument for the claim that the speech act that creates social norms is a collective assertion of preferred normed collective action for each member of the collective. Also, in Section, 4 I will give a refined definition of normed society based (grounded) on Searle's foundation taking into account Laitinen's critic and the aforementioned two features of normed social reality that I identified and termed Motivation and Expectation.

I will not discuss the validity of Searle's theses about (1) the central importance of language in the construction of normed social reality, (2) Searle's understanding of the distinction between constitutive and regulative rules, and (3) ontological or epistemic priority of natural objects as Searle defines them. Although they can be questioned (e.g. Hindriks (2013) argues against (1) and (2), Morin (2013) questions (2), and Brandom's (2000) normative inferentialism can be seen as a challenge to (3)) I will assume their truth for the sake of argument.

2. Searle's general conception of social norms

One of Searle's key points in his analysis of social reality is that, originally, social norms are constitutive rules. As constitutive rules, social

norms take the form: an X counts as an Y in the context C. He claims that X and Y range over natural and social objects, and, loosely said, tools (more about these objects and their special relationship to variables later in this section). These rules, Searle claims, constitute, and even create the activity they regulate. He contrasts them with regulative rules that are introduced subsequently to regulate a certain activity:

“...the rule ‘Drive on the right-hand side of the road’ regulates driving in the United States, but driving can exist independently of this rule. Some rules, however, do not just regulate, but they also create the possibility of the very behavior they regulate. So the rules of chess, for example, do not just regulate pushing pieces around on a board, but acting in accordance with a sufficient number of the rules is a logically necessary condition for playing chess, because chess does not exist apart from the rules.” (Searle, 2010, pp. 9–10).

The conception of normed social reality is the central focus of Searle’s *The Making of Social World: The Structure of Human Civilization*. Searle presents it as part of a broader theory, the theory of social ontology, that deals with the social phenomena as such, both normed and not normed.

The basic distinction that Searle draws within his wider conception, and which is also transferred to the narrower theory, i.e. theory of normed social reality, is between natural and social phenomena. This distinction is made according to whether the phenomenon in question involves collective intentionality, which is the shared attitude of subjects toward the same object, such as ‘We believe it is raining.’ Examples of social phenomena or facts are animals hunting together, or, as Searle points out, two people pushing a car together, formal meetings, sports matches, etc. Unlike social phenomena, natural phenomena do not include collective intentionality. More precisely, natural objects, according to Searle, do not presuppose intentionality at all. They exist outside of consciousness. As Searle says: “there are many phenomena that are totally independent of the mind, such as mountains, molecules, and tectonic plates.” (Searle, 2010, p. 17)

Normed social facts are the ones that involve social norms, i.e. collectively accepted, expected and demanded patterns of behavior. The examples mentioned are non-normed social facts because, they in themselves, do not presuppose the existence of social norms. Unlike them, formal meetings, sports matches, etc. are normalized social phenomena; they imply the norms that regulate them.

The ability to posit and act according to constitutive rules presupposes the ability to conceive of a certain object as some other object; the ability to count a piece of wood as a bishop (in a game of chess) is an instance of this capacity. Searle, of course, acknowledges this by speculat-

ing that this ability of ours originates from an early ontogenic period and finds it explanatory for normed social reality:

“Small children can say to each other, ‘Okay, I’ll be Adam, you be Eve, and we’ll let this block be the apple.’ This, if one allows oneself to think about it, is a stunning intellectual feat. It was pointed out to me by Tomasello and Rakoczy and it seems reasonable to suppose that it is the ontogenetic origin of the human capacity to create institutional reality. If in fantasy we can count an X as a Y that it is not really, then with maturity it is not at all hard to see how we can count an X as a Y where the Y has a kind of existence, because it regulates and empowers our social life, even though the Y feature is not an intrinsic feature of nature.” (Searle, 2010, p. 121).

In the social norm schema, placeholder X is a natural object, causal agentive function¹ or status function, placeholder Y is a status function, and placeholder C is a particular environment. Both causal agentive functions and status functions, Searle says, are agentive functions – properties of objects that are “intentionality-relative” (Searle, 2010, p. 59). Namely, agentive functions are the properties of an object assigned by the subject when imagining the object as suitable for a certain purpose. Agentive functions of causal type are intentionality-relative properties that an object has solely in virtue of its intrinsic properties. Saws, cars and so on, are examples of this; a subject is required to count a collection of pieces of metal, plastic, rubber, etc., as a saw or a car, but the subject can use them for cutting or transportation based solely on the properties the objects already possess. In contrast, status functions are intentionality-relative properties that an object has solely by virtue of being accepted or collectively imagined to have it. About the characteristics of status functions, Searle says:

“The distinctive feature of human social reality, the way in which it differs from other forms of animal reality known to me, is that humans have the capacity to impose functions on objects and people where the objects and the people cannot perform the functions solely in virtue of their physical structure. The performance of the function requires that there be a collectively recognized status that the person or object has, and it is only in virtue of that status that the person or object can perform the function in question. Examples are pretty much everywhere: a piece of private property, the president of the United States, a twenty-dollar bill, and a professor in a university are all people or objects that are able to perform certain functions in virtue of the fact that they have a collectively recognized status that enables them

1 Searle doesn’t use the term “causal agentive function” in *The Making of Social World*, but in his earlier work in social ontology, *Construction of Social Reality* (1995). Still, the same concept is employed in the latter work, although not labeled by this term.

to perform those functions in a way they could not do without the collective recognition of the status.” (Searle, 2010, p. 7)

In order to fix the distinction between agentive functions of the causal type and status functions and explain in more depth the characteristics of the latter, I proceed with the following example, partly inspired by Searle. A natural border between two states is an agentive function of causal type (if some subject views it as a barrier), or simply a natural object (when taken in isolation from the interests of specific subjects), while the status function would be its political counterpart. In the case of a natural border, the transition between states is impossible due to the intrinsic properties of the border; in the case of a purely political border, the crossing is impossible due to the agreement of the relevant parties that it cannot be crossed.

The impossibility of crossing the border between two states, Searle would say, is not due to physical obstacles (here we assume that there are none), but to the normative force of this status function. Searle claims that status functions carry “deontology”, a special system of rights and obligations for those who agree to accept them. The status function of a political boundary that two groups of people add to a shallow, narrow watercourse entails an obligation on members of different groups not to cross the stream and the right to arrest and expel members of the opposing group if they do so.

It was said that agentive functions, i.e. both agentive functions of causal type and status functions, are added or assigned to natural objects. This is why Searle calls natural objects basic.² Also, it is said that the placeholder X is a natural object, agentive function of causal type, or a status function, according to Searle. The implications of these two theses are as follows.

First, status functions can be stacked on top of each other. Searle also argues that multiple mutually compatible status functions that are not superimposed can be assigned to natural objects, agentive functions of causal type or other status functions. An example of multiple non-stacked and stacked status functions is this: a citizen can have the status function of the president and a parent, which by definition are superimposed on the status function of a citizen, but not on top of each other: the president or

2 Searle also arranges natural objects into a hierarchy of basicity: “...basic facts are given by physics and chemistry, by evolutionary biology and the other natural sciences. We need to show how all the other parts of reality are dependent on, and in various ways derive from, the basic facts. For our purposes the two most fundamental sets of basic facts are the atomic theory of matter and the evolutionary theory of biology” (Searle 2010, p. 4)

a parent must be a citizen, but being the president does not necessarily mean being a parent and vice versa.

Second, although one status function may be assigned to another, making the first status function an X term and the second a Y term, in the social norm scheme, the initial X object in the chain of status functions must be a natural object or phenomenon. In our example, the status function of a citizen is assigned to a *homo sapiens*, a natural object.

Now we can propose the term *normed social reality* based on Searle's considerations: normed social reality is a network of assigned status functions connected in the two basic ways as described above, by stacking status functions on top of each other or by horizontally assigning multiple status functions to the same object, where the original nodes in the network are natural objects. Simply, a normed social reality is a network of social norms.

Searle takes that status functions are assigned through collective intentionality, more precisely through the collective linguistic action of changing reality by presenting it as changed. Searle calls these speech acts status function declarations (Searle, 2010, p. 13). For now, it is enough to state that Searle thinks that through them social norms, i.e. constitutive rules are established. In order to understand the nature of status function declarations and why they are flawed as Searle imagines them, we need to introduce a general account of representations, since status function declarations are supposedly speech acts and speech acts are representations.

2. General account of representations

Representations are the forms that the mind, that is, intentionality, takes in its focus on the world or parts of the world. Some artifacts, concrete objects created by the mind, are also considered representations when they serve as signs. The basic elements of representations are the mode, i.e. the way of referring, on the one hand, and the content i.e. what the mind refers to, on the other. (Examples of representations are beliefs, desires, assertions, etc. In these cases, the content is a proposition, the modes are *believing that X*, *wishing that X*, *asserting that X*, etc., where X is the content-proposition. When we talk about the mode of intention, the content is a particular act, not a proposition.)

By introducing the concept of representation, a fundamental difference is made between the mind or the representation and the external world, i.e. reality which is outside the subject's mind to which the subject's mind refers. The basic requirement imposed on the external world and its

representations is that they should or strive to fit in with each other, due to the fact that both are integral parts of Reality, which we believe is not disharmonious, but a unified whole.

The idea of the direction of fit can be traced back, at least, to G.E.M. Anscombe's *Intention* (1957), but the term itself was coined by John Austin (1953) a few years earlier. It is a property of a representation that tells what will happen or what should be done with the representation when there is no fit between it and the world. Anscombe distinguishes two directions of fit of a representation; one where the representation should change if it doesn't agree with (external) reality, and one where the world should change when there is a discrepancy between it and the representation. Her oft-quoted example of these two directions of fit is this:

"Let us consider a man going round a town with a shopping list in his hand. Now it is clear that the relation of this list to the things he actually buys is one and the same whether his wife gave him the list or it is his own list; and that there is a different relation when a list is made by a detective following him about. If he made the list itself, it was an expression of intention; if his wife gave it him, it has the role of an order. What then is the identical relation to what happens, in the order and the intention, which is not shared by the record? It is precisely this: if the list and the things that the man actually buys do not agree, and if this and this alone constitutes a mistake, then the mistake is not in the list but in the man's performance (if his wife were to say: 'Look, it says butter and you have bought margarine', he would hardly reply: 'What a mistake I we must put that right' and alter the word on the list to 'margarine'); whereas if the detective's record and what the man actually buys do not agree, then the mistake is in the record." (Anscombe, 1957, p. 56)

Anscombe did not name the directions of fit of representations she observed. Over time, they were given names. The detective's record has, what is now officially called, the representation-to-the-world direction of fit. Here the representation needs or is expected to fit into the world. (If it does not match, the representation needs to change or tends to change. Types of this representation are beliefs, statements, predictions, prophecies, speedometers, etc. These representations are also called theoretical representations.) On the other hand, buyers shopping list has a world-to-representation direction of fit. The opposite is the case here; the world should or tends to fit with the representation. (If there is no alignment, the representation should be kept as is. Types are wishes, directives, commissives, etc. These representations are also called practical representations.)

Searle goes further than Anscombe in theorizing about the direction of fit by adding two more possibilities concerning this property of a rep-

representative. On his account a representation can have any of four mutually exclusive values regarding the direction of fit (Searle, 2010, p. 15, 97). In no particular order, these are:

- Representation-to-the-world direction of fit.
- World-to-representation direction of fit.
- No direction of fit. Here the representation has no direction of fit. (Examples of this are images of the imagination, expressions of gratitude, etc.)
- Double or opposite direction of fit. This is a property of status function declarations.

I will now give a concrete example of these 4 types of representative, according to Searle, using the same propositional content:

- a) Belief that “Pebbles are money” has the representative-to-the-world direction of fit. It is a description of a functional aspect of some society. It can be false or true. If it is false it means it doesn’t fit with the world and therefore should be rejected or modified.
- b) Desire that “Pebbles are money” has the world-to-representative direction of fit. If it is not satisfied, that is if it doesn’t fit the world it should remain as long as the relevant change occurs in the world.
- c) Entertaining of the thought “Pebbles are money” has no direction of fit. It’s nothing more than a passing idea or a mental exercise.
- d) The declaration that “Pebbles are money” has a double direction of fit. Through it, Searle claims, the reality is changed in the direction of pebbles being money by representing that pebbles are money.

3. Laitinen’s criticism of representations with the double direction of fit

Laitinen distinguishes three steps in his argument against the existence of representations with a double fitting direction:

1. The claim that only in the case of a discrepancy between the representation with the content A and the world does the direction of fit of the representation with the content A become apparent. Further, Laitinen distinguishes four possible states of the world when we speak of the relation between a representation with the

direction of fit and the world: the case where representation has content A and world is A, representation has content non-A and world is A, representation has content A and world is non-A, and representation is non-A and the world is non-A. (Laitinen, 2014, pp. 189–190)

2. The claim that the correct way to achieve the fit between a representation and the world depends on the kind of representation. (In the case of theoretical representations, fitting is done by modifying the representations. On the other hand, in the case of practical representations, the world should or tends to be modified when it does not fit.) (Laitinen, 2014, pp. 190–192)
3. The analysis of the failed representation with a double direction of fit. Since the representation has both directions of fit, both the representation and the world should or tend to change in the event of a mismatch. This, Laitinen notes, leads to a vicious circle. Namely, if the representation has content A and the world is not A, changing the representation to non-A and the world to A leaves the discrepancy. The attempt to eliminate this new discrepancy leads to the original one, and so on indefinitely. Simply, a representation with a double direction of fit is internally inconsistent. (Laitinen, 2014, pp. 192–194). As a side note, Smitz (2020) and Hindriks (2015) are sympathetic to Laitinen's analysis.

Apart from giving very general possible directions, Laitinen's argument is a negative critique of Searle's account of speech acts that create social norms. In the next section I give my positive contribution to the problem.

4. Speech act that creates social norms as a (collective) assertion of preferred normed collective action

Laitinen's critique limits what characteristics the speech act that creates social norms can have. It cannot have the property of opposite direction of fit. In order to discover other features of the speech act that creates social norms, I suggest that we start from our experience of normative life and ask how it is established by speech acts?

Two related phenomena concerning typical social activity stand out in particular: subjects are motivated to act in accordance with social norms, and subjects predict or expect that others will follow the same social rules as they do.

Therefore, the speech act that creates social norms must result, at least, in the motivation of the subjects to comply with the norms, in the common knowledge that the social norms will be respected, and cannot have the double direction of fit.

Before introducing the speech act which I believe has these implications, I will introduce what I will call the *law of collective action*. The law says that individuals associate with each other, they perform collective action, if and only if everyone makes a net gain in their well-being from association. (The individual gain I am talking about includes altruistic desires). Collective action, therefore, when actual, is necessarily something that individuals prefer to non-cooperation.

A few definitions are needed:

- Def. 1) A collective action is defined as an action that cannot be performed individually, in other words, one that requires collective intentionality.
- Def. 2) The preferred collective action is the most beneficial for all collaborators among the alternatives. We assume it always exists. If only one collective action is possible, it is trivially the one preferred.
- Def. 3) Normed collective action is a collective action according to the aforementioned social norms, counting some X as Y in the environment C. A preferred normed collective action exists.

Having explained relevant definitions and the limitations of a speech act that creates social norms I aim to consider a speech act that satisfies the definitions given. The speech act that creates social norms is a collective statement of preferred normed collective action. Its form is: we claim that each of us derives the maximum possible welfare by counting X as Y in an environment C and we believe that this is common knowledge.

Being a theoretical representation, the above representation may not fit into the world, in which case it is false and should be discarded or modified. This representation also takes into account the motivation of the relevant subjects to treat X as Y in the context C – it is believed to be most beneficial for the subjects involved. I label this feature of normed social reality Motivation. In addition, this speech act explains why the parties expect the norm(s) to be obeyed by everyone involved – there is common knowledge about the maximum benefit of relevant cooperation for all collaborators. This second feature I label Expectation.

Austin draws our attention to the fact that when speaking, three acts are performed (Austin, 1962, pp. 108–109). A “locution” is an utterance

with a fixed meaning in the context of a linguistic community; “illocution” or “illocutionary force” of a speech act is the intention of the speaker when uttering the locution; “perlocution” or “perlocutionary force” of a speech act is the effect of the speech act on the speaker. When the sentence “It’s cold in the room” is spoken, with the intention that the listener closes the window, and in a situation where the listener responds to the request, the locution is the sentence “It’s cold in the room” which is an assertion with its grammatical meaning, a request and an implicit sentence “Close the window” is an illocution, and the fulfillment of the request by the listener, i.e. the implicit sentence “I will close/I close the window” is a perlocution.

The perlocutionary force of the aforementioned speech act that creates social norms is the collective intention to count X as Y under the assumption that the desire-belief model of intention is correct, i.e. the account of intention according to which available actions are chosen based on their expected utility, the strength of the desire multiplied by the subjective assessment of the probability of fulfilling it with the available means. An example of the account is intending to go to the grocery store, which is available means, to enjoy an ice cream, which is desired, since the expected utility of going to the grocery store to get an ice cream is greatest among the alternatives, for example staying at home to read a book. The collective intention to count X as Y does not necessarily have to be verbalized during the establishment of institutions, although such a collective speech act certainly exists implicitly.

From everything said so far, including the truth of Searle’s claim about the ontological or epistemic priority of natural objects, it follows that a normed social reality is a structure made up of the intentions that certain objects, primarily natural ones, carry specific status functions in order for each interested party to derive the maximum possible benefit. The system of intentions is based on or caused by a shared and commonly known belief system about which status functions to assign to certain, primarily natural objects, in order to achieve a maximally beneficial outcome for each member.³

3 My attention has been drawn to the problem of reconciling the explanation I offer here with the Prisoner’s Dilemma scenario. In the Prisoner’s Dilemma, there is a shared understanding among criminals of the common benefit of maintaining a social norm of non-cooperation with the police. However, when they pursue their individual interest, criminals override that social norm. The problem can be solved by distinguishing between the social norm of non-cooperation with the police before arrest and the absence of that norm, i.e. establishing a social norm of cooperation with the police by criminals when they are arrested. In both cases there are certain social norms that actors establish considering their individual interests. Also, iterated

Conclusion

My main aim in the paper was to fill in the gap in, what I call, Searle's theory of normed social reality left by Laitinen's refutation of status function declarations which Searle considers as speech acts that create social norms. I showed that this gap should be filled by claiming that the speech act that creates social norms is a collective statement of preferred normed social action, based on three facts: the proposed speech act, being a statement, has one direction of fit, it perfectly explains the motivation of agents to follow social norms (Motivation) and why agents who follow social norms expect others to do the same (Expectation). My secondary objective was to give a definition of a normed social reality, on Searle's grounds, informed by the previous considerations and by positing that the perlocutionary force of a such speech act is a collective intention to count X as Y (in context C). My ultimate conclusion is that a normed social reality is a system of intentions to hold certain Xs, originally natural objects, as Ys in contexts C, a system based on a shared belief system about which status functions to assign to certain, originally natural objects, in order to achieve a maximally beneficial outcome for each agent.

References

- Anscombe, G.E.M. (1957). *Intention*. Cambridge, Mass.: Harvard University Press.
- Austin, J. L. (1953). How to Talk-Some Simple Ways. *Proceedings of the Aristotelian Society*, 53, 227–46.
- Austin, J. L. (1962). *How To Do Things With Words*, Oxford: The Clarendon Press.
- Brandom, R. (2000). *Articulating Reasons: An Introduction to Inferentialism*. Cambridge, Mass.: Harvard University Press.
- Collins, Rory W. (2022). The Prisoner's Dilemma Paradox: Rationality, Morality, and Reciprocity. *Think*, 21(61), 45–55.
- Hindriks, F. (2013). Restructuring Searle's Making the Social World. *Philosophy of the Social Sciences*, 43(3), 373–389.
- Hindriks, F. (2015). Deconstructing Searle's Making the Social World. *Philosophy of the Social Sciences*, 45(3), 363–369.
- Laitinen, A. (2014). Against representations with two directions of fit. *Phenomenology and the Cognitive Sciences*, 13(1), 179–199.

prisoners' dilemma can make cooperation among criminals likely, as the payoffs of available actions change. The iterated prisoner's dilemma reflects the reality of certain criminal circles, hardened criminals who are unwilling to tarnish their reputation by cooperating with the police or who have a reasonable suspicion that cooperating with the police will result in drastic sanctions from the rest of the underworld.

- Morin, O. (2013). Three Ways of Misunderstanding the Power of Rules. In M. Schmitz, B. Kobow and H. B. Schmid (eds.), *The Background of Social Reality* (pp. 185–199). Dordrecht: Springer.
- Schmitz, M. (2020). Of layers and lawyers. In M. Garcia, R. Mellin and R. Tuomela (eds.), *Social Ontology, Normativity and Philosophy of Law* (pp. 221–240). Berlin: De Gruyter.
- Searle, J. (1995). *Construction of Social Reality*. New York: The Free Press.
- Searle, J. (2010). *Making the Social World: The Structure of Human Civilization*. New York: Oxford University Press.
- Sinhababu, N. (2012). The Desire-Belief Account of Intention Explains Everything. *Noûs* 47 (4), 680–696.