Are there any Institutional Facts?

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Following John Searle, social ontologists often distinguish between brute and institutional facts. The fact that there is snow on Mount Everest is a brute fact; the fact that Donald Trump is president of the United States is an institutional fact. Brute facts exist independently of any institutions; institutional facts require institutions to exist (Searle 1995: 2, 27; 2010: 10).

There is an ambiguity in the notion of fact that needs to be resolved here. Are Searle and his followers talking about facts as worldly states of affairs (objects having properties, objects standing in relations to one another) or facts as truths, i.e. facts as true statements or propositions (abstract entities)? Searle's disciples are often silent on this issue. I think it is clear, however, that Searle himself thinks of facts – institutional ones included – as worldly states of affairs. He says that "facts function causally in a way that true statements do not" (1995: 206) and that "the whole point of having the notion of 'fact' is to have a notion for that which stands outside the statement but which makes it true, or in virtue of which it is true, if it is true" – "[facts] are conditions in the world that satisfy the truth conditions expressed by statements" (1995: 211). He summarizes his approach to social ontology: "one […] method in philosophy is to analyze the structure of the facts that make our statements true. In earlier chapters I have attempted to do that with the structure of […] institutional facts" (1995: 221).

But can there be worldly states of affairs that require institutions for their existence? How are such facts brought into being? Searle maintains that institutional facts are created by collectively accepted "Status Function Declarations", typically of the form "We make it the case by Declaration that object X now has the status function Y in C" (2010: 99).[1] Institutions are systems of Status Function Declarations (2010: 10, 13). Such declarations "change the world by declaring that a state of affairs exist [X's being Y] and thus bringing that state of affairs into existence" (2010: 12).[2] The worldly state of affairs is created simultaneously with the performance of the declaration – hence the use of the present tense and indexicals like "now" in declarations (Searle 1989: 556-557).

How could a declaration synchronically bring a worldly state of affairs into being? By way of causation (as defended e.g. by Elder-Vass 2012: 62-65)? That option seems

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[1] A status function, according to Searle, is a function (i.e., "a cause that serves a purpose" (Searle 2010: 59)) with two special but interrelated features: "First, […] they require collective intentionality, both for their initial creation and for their continued existence. And second, they are functions that a person or other entity has, not in virtue of physical structure […], but in virtue of collective imposition and recognition of a status." (Searle 2010: 59; see also 1995: 40-51; 2010: 7, 102-104)

[2] As Searle puts it in his (1975/1979: 16): "It is the defining characteristic of this class [of speech acts] that the successful performance of one of its members brings about the correspondence between the propositional content and reality, successful performance guarantees that the propositional content corresponds to the world."

to be ruled out by the special theory of relativity, according to which causal processes always propagate at a finite velocity (precluding instantaneous causation). By way of grounding (as defended by Schaffer forthcoming)? But synchronic grounding in one frame of reference will, in relativistic Minkowski spacetime, involve backward grounding in a frame of reference moving at high velocity relative to (and towards) the reference frame in which the grounding relation, holding between the spatially separated relata, is synchronic.[3] Perhaps there are instances of backward grounding, but backward grounding of worldly institutional states of affairs is simply incredible. How could a person acquire a worldly property (or "status function") of being president, a convicted criminal or a promoted professor before the relevant declaration has occurred (in a certain reference frame)?

Disregard relativistic considerations: synchronic creation of worldly institutional states of affairs by declarations is problematic even within a Newtonian framework, where simultaneity is absolute and action at a distance is possible in principle. What is the exact *mechanism* (of causation or grounding or …) that generates the worldly institutional state of affairs, consisting of an object with an institutional property, located at a distance from the declaration? It is hard to see how there could be such a mechanism. The idea seems to involve magic. As Nikk Effingham puts it, discussing declarations: "I think it is strange that merely speaking and intoning certain phrases could cause anything to exist (except, of course, for the words and intonations themselves). […] The thought is that only wizards and warlocks can bring things into existence by merely uttering a few phrases." (Effingham 2009: 253) Indeed, Searle never explains how worldly institutional states of affairs could be brought into existence by declarations. He is content proclaiming that we simply can bring such states of affairs into being: "We ordinary humans do not have the ability to [successfully] perform supernatural declarations [e.g., to create light by uttering "Let there be light!"], but we do have a quasi-magical power nonetheless of bringing about changes in the world through our utterances. (Searle 1989: 549) We can create boundaries, kings, and corporations by saying something equivalent to 'Let this be a boundary!' 'Let the oldest son be the king!' 'Let there be a corporation!'" (2010: 100) [4]

I think it is much more plausible to hold that nothing worldly is created by declarations (except for the words and intonations themselves): no worldly institutional property or object, and hence no worldly institutional state of affairs, is created by a "Status Function Declaration". But that is not to say that collectively accepted declarations do not "create" institutional facts understood as *true propositions* partly made true by declarations. The truth-makers for propositions such as <Donald Trump is President of the Unites States>, <N.N. is a convicted criminal> and <Anna-Sofia Maurin is a professor> do plausibly involve declarational utterances or inscribings (or more fundamentally, utterance acts (Searle 1969: 24), or Austinian phatic acts (Austin 1962: 95)), semantic rules, legal regulation (i.e. further declarational utterances and inscriptions), and people's attitudes – much the way characterized by Searle in his books and articles (Searle 1969; 1975/1979; 1989; 1995; 2010). Only, these truth-makers seem to be brute (as Searle himself seems to acknowledge at

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[3] This is illustrated in detail in my (ms.). Many of the issues mentioned briefly here are discussed in depth in that paper.

[4] Admittedly, Searle says that institutional facts are "ontologically subjective" (1995: 8, 2010: 18), and thus it might be that he holds that they do not really (or objectively) exist (see also Searle 2010: 100, 120). But if institutional states of affairs do not really exist, how can they serve as truth-makers? How can they be causal? How can they be part of ontology?

various places, e.g. 1995: 12, 2010: 110-115). If this is correct, institutional truths[5] can be taken to be made true by *brute* truth-makers. We need not postulate institutional state of affairs as truth-makers for institutional truths (*pace* Searle 1995: 221).

To wrap up: are there any institutional facts? If understood as worldly institutional *states of affairs* (created by declarations), arguably no; if understood as institutional *truths* (partly made true by declarations), arguably yes.

Consequence: institutional facts cannot be relata of causal relations. Qua states of affairs, they are non-existent; qua true propositions, they are too abstract. *Mental representations* of institutional facts may however influence our reasoning, decision making and behaviour and thereby give rise to the complex patterns of behaviour and social interactions we see in modern societies. (These conclusions are supported further and elaborated in my forthcoming and ms..)

Acknowledgements

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[5] Note that we may very well allow that such truths express so-called "abundant properties" (see my ms. for discussion).

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