Instructions for use

Constitutive Rules of Social Practices: Definitional or Essential?

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The aim of this paper is to distinguish between two types of constitutive rules that I will call "definitional" vs. "essential" constitutive rules, to make sense of the distinction, and further to try to show its implications for an account of social reality. Very roughly, constitutive rules are rules that constitute social reality and play a role in the determination of what social practices are. What I want to argue is that we have to distinguish two ways in which constitutive rules can make sense of social practices: some constitutive rules are there to give meaning to activities within those practices and to define those activities; others operate on a deeper level and underlie, in an essential way, those social practices themselves. I will call the first type of constitutive rules "definitional" and the second type "essential", and I try to give a possible explanation of this distinction.

How I will proceed is the following: I start by introducing the distinction between the two types of constitutive rules through speech act theories and games via which I came to this distinction, by reference to two conflated ways of characterizing constitutive rules in speech act theories: the Searlian characterization (Searle J., 1969) and the Williamsonian one (Williamson T., 2000). According to both authors, speech acts, as well as games, are governed by constitutive rules, but whereas a constitutive rule in the Williamsonian sense is a rule that is *essential* to an act, such that it necessarily governs every performance of the act (Williamson T., 2000: 239), a constitutive rule in the Searlian sense is a rule that is *tautological* in character, such that it can be seen, now as a rule, now as an analytic truth based on the meaning of the activity term in question. (Searle J., 1969: 34). Therefrom, I introduce the distinction between "definitional" vs. "essential" constitutive rules. Definitional rules correspond to the Searlian sense of 'constitutive', and essential rules correspond to the Williamsonian sense. The difference lies in the fact that if a constitutive rule is definitional, we do not engage in the act of which the rule is definitional if we do not act in accordance with the rule, but if a constitutive rule is essential, obeying it is not a necessary condition for performing the act which is constituted by that rule. I argue that whereas competitive games are governed by definitional rules, speech acts are governed by essential rules.

I then suggest a possible way to trace this distinction in an institutional framework, by introducing a parallel distinction between intra-institutional concepts and trans-institutional concepts (Miller D., 1981). The former are concepts that are entirely defined or that exist only in virtue of a rule within a certain institution, and the latter are somewhat-floating concepts used in different institutions. (Miller D., 1981) I then suggest that there is a parallel between intra- vs. trans-institutional concepts and the definitional vs. essential constitutive rules, which can help us find an explanation, in the institutional framework, of the distinction between the two types of constitutive rules: essential rules are those in the formulation of which a trans-institutional concept is used and which give the point and significance of the practice of which they are constitutive; definitional rules are those constitutive rules which do not involve any trans-institutional concept, and involve at least one intra-institutional concept.

In a second part I try to situate these distinctions in two different frameworks of accounting for social practices: First, an essentialist framework though the work of A. Reinach, and then a conventionalist framework through the work of A. Marmor. According to Reinach (Reinach A. 1983), social and legal entities form a specific ontological category of temporal objects which have their own independent being and are governed by what he calls "essential laws". I aim to situate the distinction between the two types of constitutive rules by reference to two characteristics of Reinachien essential laws: their immediate intelligibility and their non-forgettability. I will then compare this "essentialist" account with Marmor's account of social conventions (Marmor A., 2009), according to which social practices are results of [constitutive] conventions, and he distinguishes between two types of conventions in these domains: surface conventions and deep conventions. I again aim to situate the distinction between the two types of constitutive rules with respect to Marmorian surface and deep conventions. I conclude that in whichever way we want to defend the emergence of social and legal institutions, we had better be disposed with the distinction between definitional and essential rules.

Main References

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