The Primacy of Phenomenology over Logical Analysis

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I. Introduction

When teaching at Berkeley in the seventies, I was struck by the way that John Searle’s account of intentionality resembled that given by the Husserlian branch of phenomenology. I, therefore, soon found myself playing Heidegger to what I took to be Searle’s Husserl. We gave several seminars together on intentionality and on what Searle came to call the background, and we read and criticized each other’s papers. I thought it was a good sign for the future of American Philosophy that we each respected phenomenology and analytic philosophy and drew on both traditions.

But recently, what looked like an illuminating disagreement about the phenomena has turned into a debate about the value of phenomenology, and we seem to be reproducing rather than transcending the antagonism that used to exist between our two traditions. Our fruitful discussions started hardening into polemics when I wrote “Heidegger’s Critique of the Husserl/Searle Account of Intentionality” and Searle responded with a paper entitled “The Limits of Phenomenology”. We seem to have reached the end of our dialogue when I wrote a critique of Searle’s The Construction of Social Realty entitled “Phenomenological Description versus Rational Reconstruction” and Searle responded with “Neither Phenomenological Description nor Rational Reconstruction” claiming he had always been doing logical analysis, never phenomenology. Searle’s paper ends with a section on the bankruptcy of phenomenology, speculating that I am critical of his analytic approach because I sense its superiority and the resulting irrelevance of phenomenology. The present paper attempts to restart the dialogue by correcting my misunderstandings, locating what I take to be the real disagreements, and defending the relevance, indeed, the primacy, of phenomenology over logical analysis.

Thanks to Searle’s responses to my earlier papers, I now see that I mistook his logical analysis of comportment and of social facts for an extension of
Husserlian phenomenology. I also see why I made this mistake. Searle’s logical analysis of comportment and of social facts is based on an analysis of the intentionality of what Searle takes to be the important subclass of each of these domains: in the case of comportment, *intentional action*, i.e. consciously (or unconsciously) trying to do something, and in the case of social facts, *institutional facts*, i.e. facts that set up rights and obligations. Searle, therefore, often appeals to these phenomena for pedagogical reasons when introducing his logical account. I mistakenly concluded he was proposing a phenomenological account of these limited domains, and making the phenomenological mistake of over-generalizing his conclusions to *all* comportment and all social facts, even *absorbed coping* and *social norms* which I claimed showed a different and more basic kind of intentionality than the phenomena Searle analyzed. I now understand that, when Searle analyzes the role of propositional representations in constituting actions and institutional facts, he is doing logical analysis rather than phenomenology, and since he isn’t doing phenomenology, *a fortiori*, he isn’t doing bad phenomenology.

But now that I understand what Searle *is* doing, I have related problems with his logical analysis of comportment and of social facts. In what follows, I will argue that Searle’s logical analysis of the constitutive role of mental representations fails to take seriously the distinction between absorbed coping and social norms, on the one hand, and attentive action and institutional facts, on the other. Granted that Searle can extend what he means by a propositional representation to cover the whole range of comportments and social phenomena, I seek to show that, in so doing, he covers over an important logical and phenomenological distinction between *context-independent* and *context-dependent* representations and that this distinction is crucial for understanding the causal role of intentionality.

II. Searle’s Account of Action

Searle claims that for a movement to be an action it must be caused by an intention in action -- a propositional representation of the action’s conditions of satisfaction. Drawing on Merleau-Ponty’s phenomenology of everyday absorbed coping, I contested what I took to be Searle’s conclusion that, in *all* cases of comportment, the agent must be able to recognize in advance what would count as
success. Searle, I held, had correctly described intentional action, but absorbed
coping does not require that the agent’s movements be governed by an intention in
action that represents the action’s success conditions, i.e. what the agent is trying to
achieve. Rather, I claimed, in absorbed coping the agent’s body is led to move so
as to reduce a sense of deviation from a satisfactory gestalt without the agent
knowing what that satisfactory gestalt will be like in advance of achieving it. Thus,
in absorbed coping, rather than a sense of trying to achieve success, one has a sense
of being drawn towards an equilibrium. As Merleau-Ponty puts it:

[T]o move one’s body is to aim at things through it; it is to allow oneself to
respond to their call, which is made upon it independently of any
representation.9

To get the phenomenon of absorbed coping in focus, consider a tennis
stroke. If one is a beginner or is off one's form, one might find oneself making an
effort to keep one's eye on the ball, keep the racket perpendicular to the court, hit
the ball squarely, and so forth. Even if one is an expert, under the pressure of the
game, one might well be trying to win the point or at least to return the ball to the
opponent’s court. But, if one is expert at the game, not bothered by the pressure to
win, and things are going so well that one is absorbed in the flow, then, if one feels
anything at all, one feels that one's current activity is caused by the perceived
conditions not by one’s volitions. Without trying, one experiences one's arm
shooting out and its being drawn to the optimal position, the racket forming the
optimal angle with the court—an angle one need not even be aware of—all this, so as
to complete the gestalt made up of the court, one's running opponent, and the
oncoming ball.10

At this point in our debate, Searle made a move that seemed to me to
confirm that he was attempting to extend the phenomenology of intentional action
to all comportment. He insisted that absorbed coping was not itself a kind of
intentionality but rather that “intentionality rises to the level of background
abilities.”11 As Searle explained this slogan, it seemed to me to be the
phenomenological claim that, in acting, the agent has to have in mind (or at least be
able to have in mind) what he is trying to do, and that everything else required to carry out the action must be understood as nonrepresentational background capacities that cause subsidiary movements that do not themselves have conditions of satisfaction. This seemed to me to mischaracterize the phenomenon of absorbed coping, but I now understand that Searle’s claim was not meant to be a phenomenological claim at all but a logical one. 12

Searle’s logical analysis, however, leaves me with a new problem. Since each movement involved in an action does not have its own conditions of satisfaction, it should not have intentionality, yet, as Searle points out, each component movement is done intentionally. Thus, in my tennis example, the tension-reducing forehand drive that I described as a component of the action of winning the point, would, on Searle’s analysis, not have intentionality since, as the enactment of background capacities it has no conditions of satisfaction, yet it is done intentionally. Searle’s solution is that, to count as intentional, each subsidiary movement must be governed by an intention in action. As Searle puts it:

*Intentionality reaches down to the bottom level of voluntary actions.* Thus, for example, the skillful skier has his Intentionality at the level of getting down the mountain. But each subsidiary movement is nonetheless an intentional movement. Each movement is governed by the Intentionality of the flow…. 13

Searle adds that “the only cause in question could be the fact that I am actually doing it intentionally as opposed to passively experiencing it.” 14 Only in this way, according to Searle, can we explain how all the subsidiary movements involved in an action are intentional, even though only the over all action has conditions of satisfaction. It should not be surprising that I therefore took Searle to be attempting to subsume all comportment, even absorbed coping, into his logical analysis of intentional action and that I was critical of this attempt because it leaves unclear just how intentionality is supposed to be passed along, from an intention in action that represents only the final conditions of satisfaction, to every movement of the flow 15
Merleau-Ponty takes up precisely this problem. He calls the phenomenon of absorbed coping motor intentionality, and claims that it is a basic form of intentionality, missed by those who suppose that in all comportment the agent’s movements must be guided by what the agent (consciously or unconsciously) is trying to achieve. According to Merleau-Ponty, in absorbed coping the body of the performer is solicited by the situation to perform a series of movements that feel appropriate without the agent needing in any way to anticipate what would count as success. For example, in the case of an appropriate tennis swing, unlike the case of a successful return, there is no way to specify success in advance. Rather, my absorbed response must lower a tension without my knowing in advance how to reach equilibrium and what it would feel like to be there.

To see that normally these two kinds of satisfaction – appropriateness and success – can be separated, we need only note that, in my tennis example, I could make a return that feels just right and the ball fail to land in the court due to an unexpected gust of wind and, conversely, I could make a return that felt awkward and yet the ball, nonetheless, land in the court. Whatever makes the absorbed coping feel satisfactory, then, must be independent of the success achieved. Thus, besides Searle’s success conditions, the phenomenologist is led to introduce what one might call conditions of improvement.

Once the phenomenon is clear, it becomes clear too, that the intention in action might not need to reach down and directly govern the flow. Rather than the action’s success conditions directly governing the agent’s subsidiary movements, the conditions of improvement could take over the job. The intention in action would then be merely an occasion that triggered the absorbed coping, which in turn would directly cause the bodily movements.

To understand motor intentionality and its kind of causality, we can begin by considering a game in which one player guides the other’s search for some hidden object by saying “hot” or “cold.” In that case the performer is led by the clues without knowing where they are leading. Of course, in the hot/cold game, the player giving the clues needs to know where the hidden object is, and Merleau-Ponty admits that it seems impossible that an agent could intentionally move
towards satisfaction without sensing what would count as success. Since he was clear that no account of brain function conceivable in his day could account for this phenomenon, Merleau-Ponty called it magical.17

Fortunately, Walter Freeman, a neuroscientist at Berkeley, has now worked out a model of learning that can be adapted to show how the brain, operating as a dynamical system, could cause a movement that achieves success without the brain in any way representing its success conditions.18 It helps to have Freeman’s model in mind when describing and defending Merleau-Ponty’s surprising view that, although absorbed coping has conditions of satisfaction, these conditions are not necessary to guide the agent’s movements and, indeed, cannot be known by the agent in advance of his feeling satisfied.

According to Freeman’s model of learning, when an animal encounters a stimulus and responds in a way that brings satisfaction, it forms neuron connections which, when the animal again encounters that type of stimulus, produce a burst of global neuronal activity whose energy state occupies a point in an energy landscape. A point an energy landscape is the amount of energy it takes the whole configuration to be in that state, and the points around that point require more or less energy. A minimal energy state is called a basin of attraction, or an attractor. In Freeman’s model of learning the brain forms a new attractor each time the animal learns to respond to a new type of situation.

Applying Freeman’s model to action, we can suppose that, through exposure to satisfactions and frustrations brought abut by certain actions in a series of situations, the sensory-motor system forms an attractor landscape that is shaped by the possibilities for successful action in that type of situation. A new perception moves the system state into the vicinity of a specific attractor. This causes the organism to move so as to bring the system-state closer to the bottom of that basin of attraction. The tennis player’s experience, in my example, of a tension drawing him to move towards a satisfactory gestalt would, on this account, be correlated with the tendency of his sensory-motor system to relax into a specific minimum energy state.
At any given moment, the system, like the player in the “hot” and “cold”
game, is in a state that is near or far from the bottom of some specific basin. But, if
that was all that was going on in the brain, the person would be like a player who
could only guess where to look next, and so at best could find what he was seeking
by trial and error. In Merleau-Ponty’s terms, for the system to produce appropriate
comportment it must somehow already be at its object. ¹⁹

Happily, the energy landscape gives more information than just “hot” or
“cold.” In our hypothetical case, as soon as the experienced tennis player’s
perception of the situation bring his sensory-motor system under the pull of a
specific attractor, his brain tells his body, as it were, which direction of incremental
movement would make him hotter without telling it where the hottest point is. The
system thus leads the player to make those movements that result in his brain-state
approaching the lowest accessible point in its current energy landscape, without his
needing to represent where that lowest point is or how to get there. As Merleau-
Ponty already pictured it, the brain would simply be moving to a lower tension, like
a soap bubble relaxing into a spherical shape without in any way representing the
spherical shape toward which it was tending.

The analogy can be carried further to capture the basic difference between
Merleau-Ponty’s and Searle’s understanding of the causal role of an act of volition.
An interesting feature of Freeman’s model is that, once the stimulus from the
current situation has triggered a burst of neuron activity that forms a specific
attractor landscape, the attractor landscape takes over and the system relaxes into a
specific attractor. Thus, once the input has put the system into the attractor
landscape the stimulus can be, as Freeman puts it, “thrown away.”

Given Freeman’s model one can grant, as Searle claims that, in the case of
action, the intention in action rises to the level of skill. But Freeman, unlike Searle,
has an account of the causality involved that enables him to explain how the
intention in action only indirectly reaches down and governs each movement. The
intention in action merely puts the system into a specific attractor landscape. After
that, the brain correlate of the intention in action would no longer be directly
casually active, but would, as it were, be thrown away as the dynamics of the attractor landscape took over and guided the agent’s movements.

Thus the motor system could move towards an equilibrium state without being governed by even the most minimal representation of that final equilibrium. This model would correspond to Merleau-Ponty’s tension-reduction account of the agent’s being at the object rather than positing it. It would also explain why, in the case of genuine actions, there must be a prior intention to start the action, but why it is not necessary that an intention in action accompany the action. The tension-reduction model also explains why, as in my tennis example, although I may have an intention to win the point, the actual absorbed coping that consists in my being led to make the appropriate swing is carried out without there being any success conditions for the swing in advance of its satisfactory completion.

Freeman’s model would thus allow us to solve the puzzle of how each subsidiary movement of an action, although it has no conditions of satisfaction, could, nonetheless, be intentional. Rather than having to suppose that an intention in action has to reach down and directly govern each subsidiary movement, thereby, in some mysterious way, passing its intentionality on to each, on Merleau-Ponty’s and Freeman’s account, the intention in action would trigger absorbed coping which would have its own kind of intentionality.

In response to my detailed phenomenological and neurological account of the difference between the intentionality of action and the intentionality of absorbed coping, Searle has clarified his position. Now, rather than attempting to assimilate absorbed coping into his account of action by what seemed to be a phenomenological claim that intentionality always rises to the level of skill, Searle holds that my attributing a phenomenological claim to him was, from the start, mistaken. He has never been doing phenomenology, but rather, logical analysis, he says. He now grants that in absorbed coping the agent not need to have a representation of the end-state in order to move towards it – that the agent may find out what the final equilibrium feels like only when he gets there. Thus, although all his previous examples seem to suggest that a propositional representation representing an actions conditions of satisfaction must be non-indexical, he now
wants to make clear that his technical notion of propositional representation can be extended to absorbed coping. He says: “On my account [both kinds of intentionality] are forms of intentionality in the sense that they can succeed or fail.”

I presume that for Searle the conditions of satisfaction in a case of absorbed coping would be that this movement lower this tension. Thus, to preserve the generality of his logical analysis of action, Searle is ready to extend his notion of the propositional representation of an action’s conditions of satisfaction to cover both a general description of what one is trying to do and a demonstrative reference to whatever the agent senses as an improvement brought about by a particular movement in this particular situation.

In short, to analyze absorbed coping, the notion of propositional representation must be extended to cover indexicals. This may not be a problem if one is interested, as Searle is, in analyzing a broad class of phenomena, in this case all kinds of comportment, but in extending the notion of propositional representation one obscures the issues raised by those who want to distinguish conceptual and nonconceptual forms of intentional content, and one risks giving seeming support to representationalists in cognitive psychology and neuroscience.

I will here not go into the question whether the notion of propositional representation can successfully be extended, as Searle claims, to cover the sense of tension reduction required by absorbed coping. What is important for showing the primacy of phenomenology over logical analysis is that, even if Searle is successful in defining an extended sense of propositional representation that covers all forms of comportment, such a logical analysis will necessarily miss the special character and causal priority of absorbed coping.

There are three separate issues here: (1) Whether, in the case of actions initiated by an intention in action, the intention in action need be the direct cause of the bodily movements? (2) Whether there could be absorbed coping not initiated by an intention in action? and (3) Whether all action is dependent on such absorbed coping?

(1) Searle’s logical analysis convincingly shows that, to count as an action, a movement must be caused by an intention in action, and phenomenological
description and Freeman’s attractor model concur with Searle to the extent that they suggest that an intentional action must, indeed, be caused by a volition. But there is an important difference between Searle’s logical conclusions and the phenomenological and neurological ones. Searle assumes there is only one kind of intentional causality, so therefore the intention in action that causes the bodily movements must reach down and govern them directly, whereas Merleau-Ponty and Freeman contend that the intention in action is only an occasional cause that merely initiates the absorbed coping that carries out the action. On their account, the causal relations between the intention in action and the skillful coping are more complex than the one-way dependence proposed by logical analysis. Actions must, indeed, be occasioned by an intention in action with conditions of satisfaction, but carrying out such actions depends on the causal contribution of absorbed coping with its conditions of improvement. It turns out, then, that each form of intentionality needs the other. They are what Heidegger would call, equiprimordial.

(2) Once we see phenomenologically that the role of the intention in action may be simply to trigger absorbed coping, the question arises whether one always needs an intention in action to initiate absorbed coping. Phenomenology then reveals that there are many comportments that do not have conditions of satisfaction but only conditions of improvement. For example, the distance one stands from ones fellows in any particular culture depends on being socialized into what feels appropriate. Sometimes, this sense of getting the right distance is a part of an action with conditions a satisfaction as when I’m trying to have a conversation and so stand the right distance to have one, but sometimes, as when two or three people find themselves together in an elevator, one simply moves to the distance from the others that feels right. In such cases no intention in action seems to be required to initiate the bodily movement.

In any case, Searle’s notion of the prepositional content causing the bodily movement could not work as a causal account even if one extended the intentional content required to indexicals. Since there is no way to represent in advance of a movement what is going to be experienced as an improvement, the condition that
this movement decrease this tension cannot be a cause. All the agent can do is respond to the pull of the particular situation, reducing the tension moment by moment until the final equilibrium is achieved.

For the above reasons, we can see that, in some cases at least, absorbed coping is more basic than intentional action.

(3) In general, when intentional action occurs, it is only possible on the background of on-going absorbed coping--what Wittgenstein calls finding one’s way about in the world. Thus, in the last phenomenological analysis, absorbed coping, as the background condition of the possibility of all forms of comportment, is basic.

This dependency of intentional action upon absorbed coping is covered up when the notion of propositional representation, developed to give a logical analysis of intentional action, is stretched to cover the phenomenon of absorbed coping. Only phenomenology can reveal the two different types of comportment and that, of the two, absorbed coping is primordial.

End of first seminar.

III. The Construction of Social Reality

Again, I’ll begin with what I took to be Searle’s Husserlian position, then explain how my interpretation, while seemingly supported by the text, turns out to be a misunderstanding, once Searle clarifies what he means. I’ll argue that phenomenology, nonetheless, turns out to be necessary in order to distinguish the way a tension-reduction kind of collective intentionality produces social norms from the way a conventionally representational kind of collective intentionality constitutes institutional facts. Finally, I’ll discuss the dependency relations between these two types of collective intentionality.

Searle’s basic idea is that, to constitute institutional facts, human beings must impose status functions on natural facts that have no intrinsic social function. Searle tells us: “the form of the constitutive rule is ‘a [natural fact] X counts as [an institutional fact] Y in [context] C’.”24. To see that Searle seems to hold a
Husserlian view of institutional facts, we need only ask just how the imposition of a status function is to be understood. Specifically, how we are to construe Searle’s formula that the X term must come to count as having function Y?

Like Husserl and Heidegger, Searle begins with a description of everyday phenomena from within the everyday practical world:

As far as our normal experiences of the inanimate parts of the world are concerned, we do not experience things as material objects, much less as collections of molecules. Rather, we experience a world of chairs and tables, houses and cars, lecture halls, pictures, streets, gardens, houses, and so forth.25

But then, like Husserl but unlike Heidegger, Searle switches to a detached logical stance and tells us:

The important thing to see at this point is that functions are never intrinsic to the physics of any phenomenon but are assigned from outside by conscious observers and users.26

When I first read this sentence I took it to be the claim that we “conscious observers and users” actually “assign” functions to brute stuff from “outside.” It thus sounded to me like Husserl’s claim in Logical Investigations that, for there to be language, the subject has to assign meaning to otherwise meaningless noises and squiggles, and like the further claim in Ideas that, in perception, the transcendental subject has to take meaningless sensory input as some sort of object in order to be able to experience objects at all. Since Searle was talking about the functions of table and chairs, he sounded to me exactly as if he were making Husserl’s claim in Cartesian Mediations that mere physical things are encountered first and then are given meaning as cultural objects:

An existent mere physical thing is given beforehand (when we disregard all the...”cultural” characteristics that make it knowable as, for example, a hammer...)....”27

So I set out to follow Heidegger in showing that such a claim was bad phenomenology. As Heidegger points out, we normally are not detached minds or
transcendental subjects confronting meaningless physical things to which we assign functions. Rather we are from the start socialized into a world in which we cope with equipment. Searle seems to agree when he says:

> God could not see screwdrivers, cars, bathtubs, etc., because intrinsically speaking there are no such things. Rather, God would see *us treating* certain objects as screwdrivers, cars, bathtubs, etc. But our standpoint [is] the standpoint of beings who are not gods but *are inside the world.*

But, given his claim that functions are assigned from *outside,* Searle sounded to me, not like Heidegger, but like Husserl describing the “natural standpoint” only to bracket it.

It seemed to me that both the external, logical, godlike claim that, for there to be a social world the brute facts in nature must somehow acquire meaning, and the internal phenomenological description of human beings as always-already-in a meaningful world, were correct but in tension, and, like Heidegger and Merleau-Ponty, I was sure that trouble would arise if the external, logical conditions that describe the constitution of social facts were invoked to explain the possibility of our internal experience of an already meaningful world.

The problem comes up in an acute way when Searle asks how “the child ... learns to treat the sounds that come out of her own and others’ mouths as standing for, or meaning something....” The very question belies the phenomenon. Developmental psychologists have found evidence that the human fetus already responds differently to the mother’s speech than to other sounds. This research suggests that there is no sense in asking from the child’s point of view how she *learns* to take as meaningful the acoustic blasts coming out of people’s mouths. It seems that meaningfulness does not have to be learned. Rather, the talking coming out of people’s mouths is always already experienced by the child as meaningful, although, of course, the child has to learn the meaning.

One can, nonetheless, in order to provide a theoretical explanation of language, take an external perspective from outside the world of linguistic meaning and ask what makes language possible. One can then ask: (1) the *logical* question (that Merleau-Ponty calls the question concerning the conditions of possibility),
what constitutive conditions must be satisfied for the sounds coming out of peoples’ mouths to count as language?, (2) the ontological question, what must be added to mere noises for them to be experienced as language?, or (3) the scientific question, how does the brain transform acoustic blasts into what the subject experiences as meaningful words? 30 But, neither from the external nor from the involved point of view, is there any place for the question: how does the child learn to impose meaning on meaningless noises? Normally, in the world as it actually exists, the participant just hears meaningful words and there is no justification for, in Merleau-Ponty’s terms, taking the logical conditions of possibility as conditions of existence, that is, for taking the logical conditions of constitution as somehow producing the phenomena. According to Merleau-Ponty, this is the mistake which leads thinkers like Husserl to invent a transcendental activity of assigning or imposing meaning that purports to explain how a subject that starts by experiencing meaningless squiggles or noises comes to experience them as meaningful words.

With Husserl’s transcendental phenomenology and Searle’s claim that the child learns to impose linguistic meaning on meaningless noises in mind, I couldn’t help thinking that, when Searle says in explaining the constitution of institutional facts, that “functions are…assigned from outside by conscious observers and users,” he was echoing Husserl’s claim that this assigning is something transcendental consciousness actually does. But Searle has now explained to me that he never intended to make this Husserlian move. In his account of the constitution of social facts as in his theory of action, he has from the start been working out a logical analysis.31

Searle’s analysis exhibits a convincing structural parallel between the logic of the constitution of social facts and that of action. In the case of intentional action, a movement X counts as an action Y if and only if it is caused by a representation of its conditions of satisfaction, and, likewise, a bare fact X counts as an institutional fact Y if and only if it is represented as counting as Y. This claim can be granted both by phenomenologists and by logical analysts—i.e. whether we consider a representation to be a mental entity, as phenomenologists do, or merely a logical requirement as Searle does. But, just as phenomenology shows that
intentional action is a special case of everyday comportment that also includes absorbed coping, so phenomenology shows that institutional facts are a special case of social facts that also include social norms. So we must now consider what happens when we try to generalize Searle's logical account of institutional facts to social norms.

I want to argue that just because Searle’s analytical approach to institutional facts has the same structure as his approach to action, it suffers from the same neglect of important phenomenological distinctions. Just as he takes the causal role of propositional representations in intentional action as his paradigm and then generalizes his logical analysis of this special case to all comportment even absorbed coping, so, in his book on social reality, Searle takes institutional facts as his paradigm and then assumes that his logical analysis of the necessary role of propositional representations in constituting institutional facts covers all cases where human beings add norms to nature. And in both cases, the generalization covers up an important distinction. Absorbed coping turns out to be *occasioned* by trying, but the skilled activity itself is *caused*, not by trying, but by a response to a gestalt tension, and, as we shall now see, institutional facts are, indeed, logically *constituted* by the imposition of a status functions on a natural fact by representing that fact as having that status, but social norms turn out to be *produced* by a response to a gestalt tension that need not be symbolically represented or even representable.

It helps at this point to distinguish three kinds of social fact:

1. *Social behavior.* Animals exhibit collective intentionality, for example hyenas hunt as a pack and apes follow the lead of the strongest male. But as Searle points out, such social facts, while collectively *recognized*, are not *constituted* by collective intentionally assigning to something natural a new status and function that *has no basis in nature*. Thus, while animals exhibit social behavior, they don’t *constitute* social facts. Hunting in packs is just naturally more effective than hunting alone, and the alpha male is normally the strongest male.  

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2. Social norms. Social norms do not have a basis in nature. Rather, like proper pronunciation, they are learned by acquiring a sense of what is collectively considered appropriate and inappropriate. For example, gender and social class are produced and perpetuated by the members of a group being socialized into the appropriate way for those with a certain sex or those in a certain economic class to comport themselves. Likewise, a particular person could come to count as the leader because people find it appropriate to follow that person’s advice, imitate his style of speaking, etc. no matter what their theory of how that person came to be a leader -- by god, succession or whatever—and no matter how strong or smart that person really was. 

3. Codifiable institutional facts. In this case, some type of brute fact \( X \) counts as an institutional fact \( Y \) because it has been assigned a function by collective intentionality. At this level someone counts as a leader because of he is a certain type of person. Followers must be able to recognize that what makes their leader a leader is not any natural fact about him nor a collective sense of what is appropriate, but the collective agreement that assigns someone who has certain traits the status of leader. Such a status carries with it a system of rights and obligations and thus is the basis of deontic power. And since the type in question is recognized in terms of certain features, the constitutive rules and the consequent rights and obligations can be made explicit and codified.

Searle recognizes the phenomena on level one and has a great deal to contribute to a logical analysis of level three, but, as I will now argue, We have seen that, in his logical analysis of action, Searle seeks to extend his claim that an action must be caused by a propositional representation of the action’s success conditions to cover absorbed coping. He does this by introducing a minimal version of propositional representation according to which an agent, moving towards a sense of equilibrium, can be said to represent his comportment’s success conditions – that this tension be reduced -- even if he could not have in mind what that reduction would be like before achieving it. Now we will see that, just as in the case of action Searle can account for absorbed coping with its conditions of improvement only by extending his logical notion of propositional representation to
include indexicals, so here, to account for social norms, Searle would have to extend his account of constitution to include the “assigning” of a social status not just to types of facts, but to instances of facts that could not be described apart from their actual situated production.

It seems plausible, taking institutional facts as the paradigm case, that, as Searle claims, “there can be no prelinguistic way of formulating the content of the agreement [on the value] of the [Y] term because there is no prelinguistic natural phenomenon there,” but phenomenological description shows that, in the case of social norms, the claim that the shift from the brute level to the value level must be represented linguistically by the agents involved is based on a mistaken analogy. It turns out that there are cases in which, even though there is no natural phenomenon involved, a prelinguistic sense of tension can create a sense of the appropriateness and inappropriateness of a social activity without the mediation of linguistic representations. This sense of appropriateness does not involve the imposition of a type of status function on an independently recognizable type of bare fact. Just as the child does not need to learn that meaningless noises can be given meaning because in the child’s world meaningful sounds always already exist, so too in the social world, social norms need not be constituted the way institutional facts are; all that is needed to produce a social norm is collective agreement in judgments in the Wittgensteinian sense, i.e. the coordination of the tensions and tension-resolutions people socialized into a certain culture feel in specific social situations.

To see how this works, we can return to the phenomenon of standing the appropriate distance from others. A child learns such a social norm from her parents without the parents even sensing they are inducting her into the practice. Simply, if the child stands too close or too far away, the parent feels a tension and corrects the impropriety by moving closer or backing away. The child then ends up feeling comfortable in each specific situation only when standing the culturally appropriate distance. Thus, from the phenomenological point of view, a certain type of physical distance doesn’t count as the appropriate distance for the person to stand; in each situation the person is just drawn to the comfortable and therefore appropriate place. 35
But this would be an objection to Searle only if he were claiming to be describing how social norms are *produced* and work, whereas he is clear that he is attempting to give a logical analysis of how social facts are *constituted*. Even this more modest claim runs into trouble, however. Just as the logical requirements for constituting intentional action have to be extended almost beyond recognition in order to apply to absorbed coping, the logical requirements for the constitution of institutional facts do not apply without radical modification to social norms.

To see this we need only note that Searle claims that constitution requires linguistic, or at least symbolic, representations -- that natural facts must be constituted as social facts by *symbolically representing* them, which seems to mean something like describing them, as social facts since they have no natural function. But, as our phenomenology as already revealed, the sense of appropriateness of certain comportments is produced by socialization without there needing to be any type of brute fact and without there needing to be any linguistically describable status assigned to it. For example, in the case of distance-standing, one cannot describe a *class* of physical distances in a certain *type* of situation that constitute a certain type of function because the agent need merely be skillfully moving to lower a tension.

In general, Searle’s constitutive rule need not apply to social norms. Thus social norms cannot be analyzed as a sub-species of codifiable institutional facts. There need be no *type* of bare X that has a symbolically represented Y characteristic imposed upon it. 36 Indeed, what makes a certain practice appropriate is often so situationally determined that it may be impossible to specify a set of physical features that define the X term and to specify in a general way the specific status and function of the Y term. 37

Of course, these arguments do not prevent the defender of the logic of the constitution of institutional facts such as Searle from extending his analysis to the constitution of social norms, but to do so he would have to weaken his account of the type of representation required. The extended sort of representation would not be a symbolic representation of a *type* of fact (X) as having a certain *type* of status (S) in a certain *type* of context (C), but rather a representation of a specific token X
counting as having a specific status Y in a specific context C. All that one can say from an external logical point of view is that, in each particular situation, a specific objective physical distance is constituted as an appropriate social distance. But this is a very attenuated sense of constitution. In sum, one can give a phenomenological description of the conditions of existence of social facts but one must extend the sense of symbolic representation from descriptive to indexical to give a logical analysis of their conditions of possibility. As in the case of the generalization of the logical analysis of intentional acting to absorbed coping, such a move to an indexical saves the generality of the logical account of non-natural social facts but only at the expense of covering up an important phenomenological distinction--the difference between what, following Merleau-Ponty, we could call propositional and motor intentionality.

But, even if Merleau-Ponty is right about the phenomenology, and this requires extending the definition of symbolic representation that works for institutional facts, from a description to a demonstrative reference, why should we care about social norms such as distance-standing when what seems to be the basis of deontic power in society are institutional facts? The answer is that, just as coping skills underlie and make possible intentional action, the social skills that create and sustain norms underlie and make possible social institutions. According to the phenomenologist, in the analysis of social reality as in the case of comportment, the logical analyst has the dependencies upside down. The sense of what is appropriate sets up the power relations which in turn give institutions the powers codified as rights and obligations.

Such social institutions as class and gender--which are surely important cases of power relations--depend for their stability and efficacy upon certain norms being accepted as natural, and this acceptance in turn depends on people’s being socialized into a sense of the appropriateness of certain styles of behavior. As Bourdieu, drawing on Merleau-Ponty, points out, the basis of power lies not in social institutions but in “the imperceptible cues of body hexis”.

Certain forms of address and marks of respect as well as different styles of eye contact, intervention in conversation, deferential or defiant posture and so forth are sensed
as appropriate by members of each gender or class. These norms determine who commands and who obeys.

Given his commitment to the logical analysis of institutional facts as the source of deontic power, however, Searle is led to claim, for example, that the submissive attitude of women “expresses [rather than produces] their lack of power.” But this claim is ambiguous. In so far as women are naturally physically weaker than men, a cringing attitude in the face of men may express this lack of power, but the power we are interested in here is the power produced by collective intentionality. In such cases, according to Bourdieu, the prelinguistic bodily understanding that he calls our *habitus* continually “reactivates the sense objectified in institutions.” It is, after all, what feels appropriate for men and women to do that gets stabilized and institutionalized as a system of rough gender rules. And only then can such rules be codified as men’s and women’s rights and obligations.

Even institutional facts that are, indeed, constituted can and normally do, evolve out of social norms. So, for example, although money is constituted, as Searle argues, by imposing a function on a type of object, the practice of using money grows out of and makes sense in terms of the practice of barter. Before a medium of exchange can exist there have to be practices of exchanging things. But in such barter-exchanges the physical objects exchanged are not assigned a value by collective intentionality, rather, what something can be exchanged for depends on its actual use-value and a shared sense of what is appropriate in the bargaining situation. Money comes into existence when barter develops into people’s using some specific material thing in all situations as a medium of exchange. Searle avoids discussing the conditions of existence of money by seeming to grant that the institution of money evolves but then passing over the pre-institutional stages of this evolution to begin at a stage where collective intentionality already accepts a type of X as having a function Y. Thus he says:

Money gradually evolves in ways that we are not aware of. It is not the case that one fine day we all decided to count bits of paper as money; rather, the form that the collective intentionality takes is that we begin to
accept … promissory notes as media of exchange, and we continue
collectively to accept them…. One way to impose a function on an object is
just to start using the object to perform that function. 41

Searle’s commitment to logical analysis leads him to overlook the social norms
already involved in using something as a medium of exchange. In general, he thus
blurs the distinction between two different kinds of collective intentionality –
productive and constitutive -- and so passes over the important developmental role
of social norms in making possible the constitution of institutional facts.

Even in the case of highly codified institutions such as property, the
institution must draw on the social norms out of which it evolved if it is to make
sense to people and so be accepted and perpetuated. Our sense of the appropriate
ways of using things and letting others use them or excluding others from using
them underlies our practices for dealing with property, and, in the end, underlies
the laws spelling out property relations in terms of rights and duties. Indeed, it is
this underlying practical sense of the “spirit” of our institutions that allows judges
to extend the laws codifying our practices to new cases.

In the last phenomenological analysis, then, the deontic powers that
fascinate Searle draw their force from those norms of appropriateness whose
difference from and priority to institutional facts is covered up by Searle’s logical
analysis.

IV. Conclusion: An Alternative Ontology

We have now seen that Searle’s logical analysis of comportment and of
social facts is based on an analysis of the intentionality of an important subclass of
each of these domains: in the case of comportment, intentional action, i.e.
consciously (or unconsciously) trying to do something, and in the case of social
facts, institutional facts, i.e. facts that set up rights and obligations. In these special
cases, the action and institutional facts analyzed are constituted by their being
propositionally represented as actions and institutional facts. But there is another
sort of comportment that I’ve called absorbed coping and another sort of social fact
that I’ve called social norms that are too specific and contextual to be analyzed
using the usual philosophical understanding of propositional representation.
We have also seen that Searle can extend the usual characterization of the propositional representations that are logical conditions for a movement’s being and action and a natural fact’s being an institutional fact, so as to cover all forms of comportment and social facts. In so doing, however, he covers over an important logical and phenomenological distinction—the distinction between the actions and institutions that are constituted by a representation of their context-free conditions of possibility, and the absorbed coping and social norms produced by their concrete situational conditions of existence.

This distinction may not be important if one is simply interested in a general logical analysis of the role of all forms of representation in all forms of intentional constitution, but it becomes crucial if one is interested, as Searle is, in the causal powers of the mind and of institutions. Then logical analysis, by covering up the distinction between absorbed coping and social norms, on the one hand, and action and institutional facts, on the other, will necessarily cover up the way the former underlie the latter.

Such an analysis thereby covers up the need for a richer ontology than the Cartesian ontology of individual subjects, on the one hand, and natural objects, on the other. That, thanks to human beings, a meaningful world somehow devolves upon a meaningless universe is a contemporary given, shared by analytic philosophers and phenomenologists alike. So, phenomenologists do not object in principle to the logical analyst’s attempt to construct an account of how, given our modern set of ontological primitives -- mental representations and brute facts -- a meaningful world of actions and institutional facts is possible. Existential phenomenologists, such as Heidegger and Merleau-Ponty, however, do object to transcendental phenomenologists, such as Husserl, who claim that, to make intelligible the possibility of a meaningful world, meaning must be brought into the meaningless universe, from outside as it were, by meaning-giving minds. More importantly for this paper, existential phenomenologists also differ from logical analysts such as Searle, in making a sharp distinction between those actions and institutional facts that can analyzed in terms of descriptive representations and
those that must be analyzed in terms of indexical representations, between what Merleau-Ponty calls propositional and motor intentionality.

Existential phenomenologists claim that, to due justice to the unique character of absorbed coping and social norms, we have to adopt a richer ontology than the Cartesian one of minds and nature assumed by Husserl and Searle. According to the existential phenomenologists, the absorbed coping and social norms that underlie action and institutions are not best understood as constituted by the imposition of the intentional on the physical. Rather, absorbed coping and social norms have what Merleau-Ponty calls a third kind of being—a kind of being that is neither natural nor constituted, but is produced by the embodied intentionality that is always already present in the world of involved, active, social beings.

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1 I would like to thank Jerry Wakefield for first formulating Merleau-Ponty’s account of action in terms of tension reduction. See our paper, "Intentionality and the Phenomenology of Action," in John Searle and his Critics, E. Lepore and R. Van Gulick, eds., Basil Blackwell, (1990), and Mark Wrathall for his helpful comments. I also want especially to thank Sean Kelly whose criticisms and suggestions in response to many drafts of this paper have transformed and improved it so much that it now barely resembles the first version.

2 For a clear statement of Husserl’s account of intentionality, see Dagfinn Follesdal’s classic paper, “Husserl’s Notion of Noema”, in Husserl, Intentionality and Cognitive Science, Hubert L. Dreyfus, editor, MIT Press. (First edition out of print; second edition forthcoming.)


5 Hubert L. Dreyfus, “Phenomenological Description versus Rational Reconstruction”, La Revue Internationale de Philosophie, 1999. (??)
Since I need a term that will cover every sort of directed activity, I can’t use “movement,” which is not intentional at all, nor “action,” which is usually understood to involve an explicit intention. I will, therefore, use Merleau-Ponty’s term, “comportment.”

For Searle, the expression “intentional action” is redundant, but since I want to introduce the idea that there is another kind of comportment that I will call “absorbed coping” which has intentionality but is not intentional in the strong sense that the agent must be able to be aware of what he is trying to do, I will use “intentional action” to refer to comportment in which the agent has in mind what he is trying to achieve.


There is a long Zen tradition that says one must get over trying or “efforting” and just respond. This is also familiar coaching advice. The latest version is Obi Wan Kenobi’s advice to the tense and straining Luke Skywalker, “Use the force, Luke.”


I was further misled by Searle’s use of examples such as a tennis player who is paying special attention to his performance because he is behind in a tournament. Given such examples, I assumed that having an intention in action amounted either to paying close attention to each step of what one was doing, the way beginners focus on each step of their performance, or at least monitoring what one was doing, the way experts sometimes do under pressure.

But, in spite of his misleading tendency to argue for his account of action by citing cases of focused, effortful action, Searle is clear that acting intentionally can be spontaneous and absent minded, as in his example of jumping up and pacing...
around the room while thinking about a philosophical problem. I now understand that Searle privileges the phenomenon of painstaking effort for pedagogical reasons. In such cases it is supposed to be especially clear that the agent’s movements are caused by what the agent is trying to do, and so, the movements are clearly governed by what Searle calls a representation of the action’s success conditions.

13 Ibid.

14 Ibid. 294

15 Merleau-Ponty makes the same objection using Cartesian terms. “We still need to understand by what magical process the representation of a movement causes precisely that movement to be made by the body.” And he adds, “The problem can be solved provided that we cease to draw a distinction between the body as a mechanism in itself and consciousness as being for itself” (Op. cit. 139). It’s important to note that Merleau-Ponty uses “magical” in two ways. Here he uses the term pejoratively to mean that a causal claim is based on an ontology that makes it impossible to account for how it could be implemented. Later, he uses “magical” to mean that there is no currently conceivable way to cash out the causal claim. (See footnote 18).

16 Timothy Gallwey, the famous “Zen” tennis coach, actually makes use of the way these two modes of comportment can come apart. He tells the learner to imagine that he is the star of a tennis movie and they are shooting the scene where he wins the match. They already have a shot of the ball landing at high speed in the far corner of the court; now they want a shot of the swing. So the learner can relax and simply make an elegant swing that feels good without trying to hit the ball into the court. And to the learner’s surprise, just because he is not trying, the ball often lands in the far corner of the opponent’s court.

17 Merleau-Ponty, Phenomenology of Perception, 103.

20 This account would leave unexplained, however, how, in cases of absorbed coping such as distance standing that are often performed without being initiated by any intention in action, the brain is put into the appropriate attractor landscape. Since the ongoing background coping that Heidegger and Merleau-Ponty see as constantly guiding action has not yet been taken seriously by cognitive science, it should not be surprising that there is as yet no neuro-model of this capacity.

21 On this view, in absorbed coping the distinction between a prior intention and an intention in action would be eliminated, since an act of volition would cause but not accompany absorbed coping.

22 Merleau-Ponty, Phenomenology of Perception, 294.

23 More on this in Part III.


25 Ibid., 14.

26 Ibid., My italics.


29 Ibid., 73

30 One might wonder how, short of adopting our modern ontology, one could even pose these questions. It just turns out, however, that anyone, even an Aristotelian or Christian, can turn the words coming out of his or her mouth into meaningless noises simply by repeating the same word over and over.

31 It would help Searle’s readers to understand him if he would correct his seeming false phenomenological claim that the child needs to learn to give meaning to meaningless noises. One could then focus on the real issues raised by his logical analysis.

32 There are ambiguous cases, of course, such as the fact that women are both naturally weaker than men and that, in most societies, they are also constituted as socially weaker.
This might be the way charismatic leaders are created.

Ibid., 69. My italics.

The distance can feel wrong if one is in a strange culture or in a strange situation in one’s own, if, for example, the other person has a cold or there is a loud air hammer nearby, but, normally, if it feels appropriate to one and to one’s interlocutor, it is appropriate. In each specific situation, the appropriate distance is simply the distance at which those skilled in the culture’s distance-standing practices and involved in that situation feel comfortable.

I’ve made the argument that skills are so contextual that they cannot be captured in rules in my book, *Mind over Machine*. Pierre Bourdieu and Wittgenstein make similar points. Searle himself sees that rules have to bottom out in non-rulelike skills when he discusses the necessary role of the background.

Moreover, although it is not necessary for my argument, it is interesting to note that social norms such as distance standing and gender do not have a single function or even a set of functions, the way institutional facts such as property, leadership and money do.


Conversation, July 14, 1999.


Ibid., 126 (My italics.)