Searle's Derivation, Natural Law, and Moral Relativism

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Abstract Some philosophers have maintained that even if John R. Searle's attempted derivation of an evaluative proposition from purely descriptive premises is successful, moral ought would not have been derived. Searle agrees. I will argue that if Searle has successfully derived "ought," then, based on various approaches taken towards the content of "morality," this is moral ought. I will also trace out some of the benefits of a successful derivation of moral ought in relation to natural law ethics. I sketch a possible derivation of moral obligations based on one of the basic goods in natural law ethics (i.e., friendship) that resembles Searle's attempted derivation of an individual's obligation to keep her promise to someone else. I also sketch a possible derivation of moral obligations based on another of the basic goods in natural law ethics – knowledge. This derivation may not parallel Searle's attempted derivation as closely as the derivations based on friendship, but it seems to at least involve the derivation of moral obligations from all non-moral premises.

Keywords Is/Ought · Moral relativism · Natural law ethics · Searle's derivation

In his controversial paper, "How to Derive 'Ought' from 'Is,'" John R. Searle offered an attempted derivation of an evaluative proposition from purely descriptive premises.[1] That attempt, made back in 1964, spawned a slew of philosophical criticisms[2]

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[1] John R. Searle, "How to Derive 'Ought' from 'Is,'" *The Philosophical Review*, Vol.73, No.1 (1964), pp.43–58.

[2] The following represent only some of the philosophical responses to the attempted derivation: James Thomson & Judith Thomson, "How not to Derive 'Ought' from 'Is,'" *The Philosophical Review,* Vol.73, No.4 (1964), pp.512–16; R. M. Hare, "The Promising Game," *Revue Internationale de Philosophie*, No.70 (1964), reprinted in W.D. Hudson, ed., *The Is-Ought Question: A Collection of Papers on the Central Problem in Moral Philosophy* (London: Macmillan, 1969,79), pp.144–56; A.C. Genova, "Institutional Facts and Brute Facts," *Ethics*, Vol.81, No.1 (1970), pp.36–54; Ken Witkowsi, "The 'Is-Ought' Gap: Deduction or Justification?," *Philosophy and Phenomenological Research*, Vol.36, No.2 (1975), pp.233– 45; T.D. Crawford, "On the Uses of 'Is' and 'Ought,'" *Philosophy and Phenomenological Research*, Vol.39, No.4 (1979), pp.592–94.

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as well as Searle's reformulation of the attempted derivation and some other responses by him.[3] Whether or not Searle's proof is sound, it is surely a responsible and worthwhile attempt to bridge the alleged logical gap between evaluative and descriptive propositions. Despite Searle's own denial that his proof is designed to derive *moral* ought from purely descriptive premises, I will argue that, based on certain approaches towards the content of morality, Searle's proof *is* designed to derive moral ought – and that may have serious repercussions for ethical theory.[4] In this paper, I will offer support against certain objections to Searle's attempted derivation which center on the question of deriving specifically moral ought, but the main object of my investigation will be to trace out some of the implications of a successful derivation of moral ought. How would a successful derivation affect natural law ethics? Perhaps a successful derivation would not imply any moral objectivist position, but, instead, some version of moral relativism? Nowhere near enough work has been done in subsequent philosophical literature on the implications of the proof, and some of what has been done, I will attempt to show, is largely unacceptable. Ironically, Searle's own analysis of the moral implications of his derivation seems to be inadequate.

One would think that contemporary natural law ethics would be one of the likely beneficiaries of a successful derivation of moral ought, but, actually, a number of leading natural law theorists today argue that the basic practical principles underlying natural law ethics are not derived but are self-evident.[5] If Searle has successfully derived moral ought from purely descriptive premises, it would still seem worthwhile to attempt an investigation of whether from propositions describing human nature (human inclinations, tendencies, etc.), one could, with no intervening evaluative premises, derive moral propositions. Even though Searle's proof moves from descriptions of alleged institutional facts (and not, supposedly, from descriptions of human nature), nevertheless, the proof, if sound, would require us to reassess the alleged logical barrier between mere descriptions and moral obligations. Since the relevant descriptions of human nature would reflect what may be of vital concern to human beings with regard to their selection of appropriate actions, such an investigation would seem to be worthwhile and interesting.

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In his proof, Searle is attempting to derive an evaluative conclusion from descriptions of the institutional fact of promising. He tells us that promises (and

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[3] For a reformulation of the attempted derivation, and responses to some of the criticisms, see John R. Searle, *Speech Acts: An Essay in the Philosophy of Language* (Cambridge: Cambridge University Press, 1969), pp.175–198.

[4] To be sure, Searle is not the only philosopher who has attempted to derive "ought" from "is." See, for example, Alan Gewirth, "The Basis and Content of Human Rights," *The Philosophy of Human Rights*, ed. Morton E. Winston (Belmont, CA: Wadsworth, 1989), pp.181–201. Gewirth's attempted derivation is certainly another worthwhile project, but I cannot pursue that investigation in this paper.

[5] Ralph McInerny, *Aquinas on Human Action: A Theory of Practice* (Washington, DC: Catholic University of American Press, 1992). John Finnis, *Natural Law and Natural Rights* (Oxford: Clarendon Press, 1980). Germain Grisez, Joseph Boyle, and John Finnis, "Practical Principles, Moral Truth, and Ultimate Ends," *The American Journal of Jurisprudence*, Vol.32 (1987).

marriages, property, etc.) presuppose certain institutions. Without the institutional component, a so-called "promise" would be a mere utterance of words. Those mere utterances would constitute, in Searle's mind, only brute facts, though he also finds that such facts can be among the constituents of institutional facts.[6] The institutional facts, we are told, "exist within systems of constitutive rules."[7] And to state an institutional fact "is already to invoke the constitutive rules of the institution."[8] The constitutive rule in question is that "to make a promise is to undertake an obligation."[9] Searle finds this rule to be a meaning rule of the word "promise."[10]

According to Searle, "promise" is thus an evaluative word. It is logically related to obligation, which is itself evaluative. Yet, Searle finds that "promise" is also "purely descriptive," as "it is a matter of objective fact whether or not someone made a promise."[11] Searle's point here is that the is-ought distinction needs to be reexamined.[12]

The proof in Searle's paper runs as follows:

1. Jones uttered the words, "I hereby promise to pay you, Smith, five dollars."

    1.a. Under certain conditions C anyone who utters the words (sentence) "I hereby promise to pay you, Smith, five dollars" promises to pay Smith five dollars.

    1.b. Conditions C obtain.

2. Jones promised to pay Smith five dollars.

    2.a. All promises are acts of placing oneself under (undertaking) an obligation to do the thing promised.

3. Jones placed himself under (undertook) an obligation to pay Smith five dollars.

    3.a. Other things are equal

    3.b. All those who place themselves under an obligation are, other things being equal, under an obligation.

4. Jones is under an obligation to pay Smith five dollars.

    4.a. Other things are equal.

5. Jones ought to pay Smith five dollars.[13]

Searle revises the proof in his book, *Speech Acts*. There, he eliminates 3.a., 3b., and 4.a., and introduces a new 3.a: "All those who place themselves under an obligation are (at the time when they so place themselves) under an obligation."[14] Searle also introduces a new 4.a: "If one is under an obligation to do something, then

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[6] Searle, "How to Derive 'Ought' from 'Is,'" p.54–55.

[7] Ibid., p.57.

[8] Ibid.

[9] Searle, *Speech Acts*, p.185.

[10] Ibid.

[11] Ibid., p.187.

[12] Ibid.

[13] Searle, "How to Derive 'Ought' from 'Is,'" pp.43–49.

[14] Searle, *Speech Acts*, pp.179–80, 188.

as regards that obligation one ought to do what one is under an obligation to do."[15] And, finally, instead of 5., Searle substitutes 5': "As regards his obligation to pay Smith five dollars, Jones ought to pay Smith five dollars."[16]

In his paper, Searle tells us that even though it is not the case that the relationships between 1. and 2., 2. and 3., 3. and 4., and 4. and 5., are entailments, the additional statements do render them relationships of entailments, and none of these additional statements necessarily involve any evaluations, moral principles, etc.[17] In 1.a., Searle is referring to those conditions which are necessary and sufficient for the utterances of words "to constitute the successful performance of the act of promising," such as the speakers being present to each other, speaking the same language, etc.[18] Regarding the central entailment from 2. to 3., Searle reasons that "by definition," promising is "placing oneself under an obligation."[19] The need for the *ceteris paribus* provision in 3.a. arises because the obligation that Jones has placed himself under may be removed by considerations (e.g., Smith releases Jones from the obligation) that may arise at some point after the time that Jones placed himself under an obligation. It may be helpful to remember here that Searle only denies that it is *logically necessary* that, in every case in which the question whether other things are equal arises, that evaluative considerations are involved.[20] The *ceteris paribus* provision in statement 4.a. arises for a similar reason. There may be intervening considerations (e.g., overriding obligations) outside of the relation of "obligation" to "ought" which might interfere.[21] And, finally, Searle argues that even if there is something necessarily evaluative about the *ceteris paribus* clauses, statements 4. and 5. could be revised to include the *ceteris paribus* clauses. The proof would then avoid this criticism and conclude with "Other things being equal Jones ought to pay Smith five dollars." A logical entailment, says Searle, would still hold between descriptive and evaluative statements.[22] We have seen, above, that, in *Speech Acts*, Searle opts to avoid the *ceteris paribus* clauses altogether in favor of a move that would eliminate any time gap between the statement that Jones places himself under the relevant obligation and the statement that Jones is under that obligation.

Though admitting some uncertainty on the matter in *Speech Acts*, Searle, himself, doubts whether the alleged derived obligation to keep a promise has any necessary connection to morality.[23] He believes that the only bearing his proof has on the matter is that, if the proof is successful, philosophers can no longer base their conclusion that moral statements can not be derived from purely descriptive statements on the general claim that we cannot derive *any* evaluative statements

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[15] Ibid., pp.180–81.

[16] Ibid.

[17] Searle, "How to Derive 'Ought' from 'Is,'" p.44.

[18] Ibid., pp.44–45.

[19] Ibid., p.45.

[20] Ibid., p.46, n.5, p.47.

[21] Ibid., pp.46–48.

[22] Ibid., p.48.

[23] Searle, *Speech Acts*, p.188.

from purely descriptive statements. For Searle would have ostensibly derived some evaluative statement from purely descriptive ones. A new argument would now be needed for the skeptics to make their case.[24]

But what is Searle's reason for (reluctantly) concluding that he has not derived moral "ought" from "is"? He offers the counterexample of his promising to go to someone's party. He asks us to suppose that he subsequently decides, for no good reason, not to go to it. Searle then observes that he would be "remiss" in such a case, but not immoral. However, he finds that the case perhaps would be different if going to the party was important on some independent grounds.[25]

The case Searle is offering in support of his denial that he has derived moral ought is one involving someone who, without good reason, has broken his promise to do something mundane or otherwise morally neutral in character. But it would seem that one who breaks such a promise without good reason has done something morally wrong. Indeed, this would seem to be one of the paradigm cases of moral wrongdoing on a variety of moral approaches. More specifically for our purposes, it would seem that whether the obligation that constitutes the object of Searle's derivation is necessarily linked to morality depends on which account of morality is being followed. What Searle needs to realize is that the very act of promising [or some feature(s) of it] may have intrinsic value, and that could be sufficient to ensure that a successfully derived obligation on someone to keep his promise is a moral obligation. It is not necessary, as Searle seems to suggest, to invoke "independent" grounds in order to illustrate the importance of the individual keeping his promise by going to the party. Intrinsic value may be associated either with the act itself of promise keeping or with some feature(s) of it.

Ken Witkowski examines the implications of Searle's deduction. Witkowski finds that Searle has only provided a *derivation* of "ought"; he has not provided a *justification* of "ought." Witkowski believes that Searle has, indeed, derived "ought" from "is," and that he has demonstrated that value statements can be deduced from factual statements.[26] But, according to Witkowski, deduction is not the important issue in this debate, since it is the "justification gap" that needs bridging. Searle has only bridged the alleged "entailment gap."[27] The "real problem," in Witkowski's estimation, "has been whether anyone could ever justify any set of value statements on the basis of any given set of factual ones…"[28]

Witkowski proceeds to follow Searle's own lead by distinguishing between the internal and external points of view with regard to an institution. Searle's proof, as Witkowski points out, moves from the statement "Jones promised to pay Smith five dollars" to the statement "Jones ought to pay Smith five dollars." Witkowski reminds us that Searle does this by appealing to an *internal* constitutive rule which tells us what it means for someone to make a promise. The rule is internal to the institution.

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[24] Ibid., p.187.

[25] Ibid., p.188.

[26] Ken Witkowski, "The 'Is-Ought' Gap: Deduction or Justification?," *Philosophy and Phenomenological Research*, Vol.36, No.2 (1975), pp.233–34.

[27] Ibid., p.234.

[28] Ibid.

But, according to Searle and Witkowski, whether we are to *endorse* the institution of promising is a very different question. That question is answered from an *external* point of view, in Witkowski's estimation. There, instead of focusing on deduction, we are focusing on the justification of the institution, and that, according to Witkowski, requires that we appeal to some external moral rule.[29] From these considerations, Witkowski concludes that "the issue of the 'internal' deduction of an 'ought' from an 'is' surely is never a sufficient condition of a moral endorsement or justification of the institution…"[30] Witkowski then refers to Searle's case of the nihilist anarchist, who morally objects to the institution of promising. Witkowski observes that the internal consideration of knowing what "promising" entails would be a necessary condition of the justification of the nihilist anarchist's rejection of the institution of promising, but it would not be a sufficient condition for the nihilist anarchist to reject that institution on moral grounds.[31] According to Witkowski, appeal to an independent and external moral principle or rule would constitute a sufficient condition for justification in an ethical argument.[32]

Does Witkowski offer good reasons for concluding that Searle's proof cannot establish *moral* ought? Witkowski's argument rests on his distinction between the internal and external evaluation of an institution such as promising. His argument also rests on his use of the nihilist anarchist case, a case which he seems to be using to try to illustrate that moral evaluation is to be conducted from *only* the external point of view. But that case is unconvincing. It does not establish that moral evaluation can only take place from an external point of view. Neither does the case itself seem to be plausible.

With regard to the latter point, the "moral" rejection of the institution of promising would seem to be self-defeating. How could a society operate, or even survive, on such an assumption? And why can't a participant who participates in the institution from the so-called *internal* point of view be held morally accountable when she makes a lying promise, or otherwise breaks her promise? It would seem that moral evaluation can be conducted from within the institution of promising, given that promise-breaking would violate the rules of that institution. What Witkowski seems to overlook is that the *action* of Jones or whomever can be assessed in moral terms, even though the institution as a whole cannot be assessed in moral terms – strictly from within the confines of that institution, that is. The point here is that moral evaluation need not be confined to the merely external point of view. The conclusion of Searle's proof is that "Jones ought to pay Smith the five dollars." The conclusion is not "The *institution* of promising is morally acceptable, unacceptable, praiseworthy, etc." Indeed, some ethicists can argue that the very act of promising [or some feature(s) of it] has intrinsic value, and thus the derived obligation to keep the promise is a moral obligation. Whether the obligation that constitutes the object of Searle's derivation is necessarily linked to morality depends on which account of morality is being followed. It would seem that at least some

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[29] Ibid., p.241.

[30] Ibid.

[31] Ibid., pp.241–42. Searle, *Speech Acts*, p.188–89.

[32] Witkowski, "The 'Is-Ought' Gap: Deduction or Justification?," p.243.

versions of natural law ethics would identify the object of Searle's derivation as moral ought, given that "knowledge" (and, it would seem, "truth," which "knowledge" presupposes) is taken to be an intrinsic good by a number of natural law theorists.[33] Even though moral relativists probably would not hold that "promising," or some aspect(s) of it, is an intrinsic good, perhaps some versions of moral relativism (which could include promising as one of its variable basic goods) would identify the object of Searle's derivation as moral ought. And perhaps some forms of contractarianism (an approach based on agreement or contractual promises) would identify the object of Searle's derivation as moral ought.

A.C. Genova's critique, like Witkowski's, centers on the implications of Searle's proof. He argues that Searle has only successfully derived, to use Genova's terminology, an "institutional" value from institutional facts; he has not derived a "brute" value from institutional facts, and hence, in Genova's view, has failed to address the fundamental issue that philosophers have been debating "throughout the history of philosophy."[34] Genova points out that Searle's proof moves from brute facts to institutional facts, and Genova believes that once Searle reaches institutional facts, such as promising, the rest of his derivation of "ought" from "is" is "clear sailing."[35] Genova explains that institutional facts point to "activities involving rule-governed behavior in accordance with constitutive rules."[36] The making of a promise, as Genova interprets Searle, implies that the "promisor is participating in the institution of promise making," and this, says Genova, parallels the entailment that exchanging chess pieces implies that the chess players are "participating in the game of chess."[37] We are also told that institutions such as chess, baseball, and promising are systems of constitutive rules. There would be no institutional facts without constitutive rules. And constitutive rules determine the very meaning of the institutional facts, and constitute the bases of the respective activities such as checkmates, home runs, and promises.[38]

Genova elaborates by saying that the constitutive rules of institutional facts are analytic, and generally take the form "X counts for Y in context C." Although

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[33] John Finnis, *Natural Law and Natural Rights*, pp.59–80, 87. Grisez, Boyle, and Finnis, "Practical Principles, Moral Truth, and Ultimate Ends," pp.105–07. "Knowledge," it would seem, implies a standard of truth. To break one's promise is to act contrary to the assurance that one has provided the recipient of the promise. If X assures Y that he will do Z, and, without good reason, fails to do Z, then the proposition that "X will do Z" is false, and the assurance hollow. It looks like some natural law ethicists would say that an aspect or property of X's promise (i.e., knowledge) has intrinsic worth and provides a criterion for moral judgments. When X makes a promise (and gives Y assurance that "X will do Z" is true) that *implies* a standard of truth. Also notice that if some aspect or property of promising has intrinsic value, then that aspect or property would have intrinsic value, whether or not a full-blown ethical theory has been developed based exclusively on that value, or one based on that and other values. The point, here, is that the act of promising itself [or some aspect(s) of it] could have intrinsic value, and that could be sufficient to ensure that a successfully derived obligation to keep a promise is a moral obligation. Let us not be too hasty in concluding that the object of Searle's derivation cannot be moral ought. Depending on the nature of morality, it could very well be moral ought.

[34] A.C. Genova, "Institutional Facts and Brute Values," *Ethics*, Vol.81, No.1 (1970), p.37.

[35] Ibid., p.40.

[36] Ibid.

[37] Ibid.

[38] Ibid.

Genova is not explicit about it, it looks like X is satisfied by relevant institutional activities. We are told by Genova that for the institution of baseball, Y is satisfied by home runs and the like. In chess, Y is satisfied by checkmates and the like. And in the institution of promising, Y is satisfied by promises and obligations. All of these things represented by Y, in Genova's estimation, constitute "institutional values." He says that the respective constitutive rules define "what is to count as a value."[39]

Genova proceeds to distinguish between what he calls "institutional values" and "brute values."[40] A value, according to Genova, "is something like a commitment to what *ought* to be the case."[41] He finds that there is a distinction between institutional ought and a sense of "ought" that, although it may be determined by constitutive rules, nevertheless does *not* presuppose institutional facts similar to playing baseball, playing chess, or promise making. This brute sense of "ought," we are told, "simply indicates whether we value, commend, recommend, endorse (or whatever) the evaluated institutional facts without presupposing that they are themselves good, bad, or indifferent."[42] Genova is contending that we can distinguish two different senses of "ought," though, he says mystifyingly, that he is not distinguishing "literally" two meanings of "ought." He cautions against confusing "meaning" with "use," and says he agrees with Searle that, with regard to "ought" and "value," meaning is not sufficiently determined by use.[43] Genova then claims that Searle's derivation fails to address the traditional or classical claim that an evaluative conclusion cannot be derived from purely descriptive premises. According to Genova, what Searle needed to do to successfully respond to the classical claim was to derive a *brute* value from purely factual premises.[44]

Genova, as a precursor of Witkowski (who acknowledges a debt to Genova) says that Searle was, himself, distinguishing between institutional and brute values when he distinguished between two meanings of the phrase: "one commits himself to accept the institution of promising." One meaning is "undertaking to use the word 'promise' in accordance with the literal meaning as it is determined by the *internal* constitutive rules of the institution." The other meaning is "endorsing or valuing the institution itself as a good or acceptable institution from an *external* vantage point."[45] Genova says that the second meaning corresponds to what the classical moralists meant by values, and to what Genova refers to as "brute" values. The classical moralists, we are told, found that the criteria for supporting value statements are different from the criteria supporting factual statements. Factual statements were said to be supported by empirical evidence, whereas brute value statements were usually supported by ethical theories.[46]

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[39] Ibid.

[40] Ibid., p.41.

[41] Ibid., p.44. Original emphasis.

[42] Ibid., pp.43– 44.

[43] Ibid., pp.44, 46.

[44] Ibid.

[45] Ibid., pp.44– 45. Original emphasis. Searle, *Speech Acts*, p.194–95.

[46] Genova, "Institutional Facts and Brute Values, " pp.44– 45.

Genova points out that Searle, as we have seen above, believes that his derivation is limited to only the first interpretation, given his belief that the nihilist anarchist may morally reject the institution of promising.[47] But I have argued above that this is an unacceptable counterexample to the claim that Searle has not derived moral "ought" from "is." I have argued that moral "ought" can apply to the actions of Jones, within the parameters of the institution of promising. If there is a meaning of "ought," which is to be explained in terms similar to Genova's institutional ought, that would not preclude, based on certain moral approaches, the term being morally charged. We have seen that, according to some moral approaches, promising, or some aspect(s) of it, can be intrinsically valuable, and thus a derived obligation to fulfill a promise could be a moral obligation.

Another problem with Genova's criticism about the significance of Searle's derivation is that Genova fails to see that what he calls the "values" of games such as baseball (e.g., home runs) are not the same as the values of promising (e.g., fulfilling obligations). Granted that home runs are not moral values, nevertheless, obligations to keep one's promises are paradigmatically moral values.

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If Searle's proof is sound and, as I have argued, is designed, according to some moral approaches, to derive moral "ought" from "is," what bearing might this have on natural law ethics? At first glance, it would seem that natural law ethicists would welcome such a proof, but, as I alluded to above, there are a number of leading natural law ethicists who actually deny that moral "ought" can be derived from "is."[48] These natural law ethicists argue that the basic goods and practical principles of natural law ethics are self-evident. They take two of the basic goods to be "knowledge" and "friendship," and at least one of these leading natural law theorists maintains that these are self-evident *moral* principles.[49] These moral principles are not thought to be *derived* from anything, though it is also said that they may *depend* on more fundamental principles.

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[47] Ibid., p.44–45.

[48] See n.5, above.

[49] A contemporary Thomist, McInerny, disagrees with Grisez by maintaining that the self-evident basic goods and first principle of practical reason are *moral* principles. Ralph McInerny, *Aquinas on Human Action*, pp.113–14, 119–21, 123–24. See, also, Ralph McInerny, *Ethica Thomistica: The Moral Philosophy of Thomas Aquinas*, Revised Edition (Washington, DC: The Catholic University of America Press, 1997), pp.35, 41, 44–45. Grisez and Finnis, on the other hand, maintain that basic goods such as "knowledge," "friendship," etc., as well as the first principle of practical reason are only basic practical principles, and that the first principle of *morality* is "integral human fulfillment," which is said to be logically posterior to the basic goods and other basic practical principles. See Germain Grisez, Joseph Boyle, and John Finnis, "Practical Principles, Moral Truth, and Ultimate Ends," *The American Journal of Jurisprudence*, Vol.32 (1987), pp.107–08, 121–22, 125, 128, 148. In his paper "A Critique of Russell Hittinger's Book, *A Critique of the New Natural Law Theory*," *The New Scholasticism*, Vol.62 (1988), pp.445–46, Grisez seems to be suggesting, in response to Hittinger, that moral good can be located prior to Grisez's own first principle of morality. This claim by Grisez is a bit mystifying, and it does not seem to be supported by, or even consistent with, his accompanying reference to the paper that he co-authored with John Finnis and Joseph Boyle entitled "Practical Principles, Moral Truth, and Ultimate Ends," VIII B., pp.126–27.

I believe that even if these basic goods and practical principles are self-evident, that does not preclude their also being derivable from descriptions of human nature. "Friendship" may be self-evident, but, if Searle's derivation is sound, maybe an account of human inclinations toward "friendship" can, along with other constitutive rules, form the basis for a derivation of moral duties regarding "friendship." Searle's success would render that a worthwhile inquiry.

However, even if Searle's derivation is sound, a possible problem presents itself. Searle's proof, I have argued, proceeds from an *institutional* fact to moral ought. It would seem that if anything is an institutional (as opposed to brute) fact, "friendship" fits that bill. But the systems of constitutive rules which underlie "promising" and "friendship" appear to be social constructions. Would Searle's derivation of moral ought, if successful, commit us to some version of moral relativism and thereby rule out an objective moral account of moral obligation? After all, the basis for deriving basic moral principles, such as keeping one's promises and placing importance on a friend's interests, would depend on a social construction. Presumably, there could be social groups that do not acknowledge any constitutive rules for defining "promising" or "friendship."

Although I am not sure whether the following point is true of "promising," an institutional fact such as "friendship" is not context-dependent in a way similar to an institutional fact such as "baseball" or "chess." Although the institution of "friendship" depends on constitutive social rules for its meaning and existence, it also depends on an account of aspects of human nature. "Friendship" is a natural human tendency that can only be realized within its institutional context; whereas "baseball" and "chess" are mere social constructions that can only be realized within their respective institutional contexts. As mere social constructions, the latter activities are even more context-dependent. "Friendship" is rooted in human nature, and that has universal application. It is not as if "friendship" is a *mere* social construction. For these reasons, I do not believe that a proof that is constructed for "friendship" similar to the way Searle constructs his proof for "promising" would commit us to some form of moral relativism.

What might a derivation of a moral duty of "friendship" look like? Before outlining such a derivation, let us see what some natural law theorists have said about friendship. John Finnis defines "sociability" in terms of "friendship." "Sociability," in his estimation, refers to friendship with at least one other individual. Sociability is a broad notion for Finnis, and includes a minimal sense of "peace and harmony" amongst individuals, all the way through to a full-blown friendship between individuals. Friendship, we are also told, goes beyond acting merely to realize one's own purposes, but includes acting for the sake of the purposes and well-being of the other individual(s).[50]

Grisez and Russell Shaw seem to be saying that the basic good of "friendship" is harmony in relationships between individuals, and includes not only the relationships between individuals who know and like each other, but also peace and justice among groups and individuals.[51] This is very similar to Finnis' account of "sociability."

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[50] Finnis, *Natural Law and Natural Rights*, p.88.

[51] Germain Grisez and Russell Shaw, *Beyond the New Morality: The Responsibilities of Freedom* Third Edition. (Notre Dame, IN: University of Notre Dame Press, 1988), p.81.

The following is a brief sketch of a possible derivation of some moral duties of "friendship." This new derivation would resemble Searle's, and would rely on the observations of Finnis, and Grisez and Shaw, that included in the very meaning of "friendship" is peace and harmony between two or more individuals. Based on this definition of friendship, if one is not pursuing peace and harmony in their relations with others, then one is not engaged in friendship in those relations. Drawing inspiration from Searle's derivation, it would seem that from purely descriptive premises, we could derive a moral duty to pursue peace and harmony in our relations with others, and also derive a moral duty not to disrupt the peace or harmony of relationships between individuals. Those conclusions would follow from a meaning rule within a system of constitutive rules, which would include rules related to basic human interests and inclinations with regard to peace and harmony. If "basic human interests" is explained strictly in terms of desires and propensities rooted in human nature, and not in terms of "well-being" or similar notions, there would be no evaluative premises there. From mere descriptions of human nature and other constitutive rules, it would seem that we could deduce an obligation to pursue peace and harmony in our relationships with others. And, like Searle's proof, it would seem that it is a moral obligation that has been derived. Such an obligation would be other-regarding, and it would seem that our duties with regard to our friend's interests would sometimes override duties related to self or to third parties.

Note that "friendship," which would seem to involve a network of both biological and social facts, could be intrinsically valuable. Despite the fact that there would be some socially-constructed elements to it, this "good" could have more than mere use-value to human beings. It could be an intrinsically valuable good, and an object of the natural desires and propensities of human beings.

Neither Finnis nor Grisez and Shaw seem to mention that, included in the definition of friendship, is the notion that a friend's interests is more important than the interests of others. If that is included in the institutional fact of friendship, it would then seem that from purely descriptive premises, we could arrive at a moral duty to place a friend's interests above the interests of others. Some cases, however, would likely arise in which our moral duty to place our friend's interests above others would conflict with other moral duties, and, so, similar to Searle, we would need to address that in our derivation, perhaps by following something like Searle's initial qualification, "all things being equal."

If natural law ethicists follow Grisez and Shaw by defining "friendship" partially in terms of "justice," as the two apparently are doing, then, obviously, we would have more than merely descriptive premises at work in the derivation, given that the derivation would be proceeding from a definition of friendship. But I don't see why a natural law theorist would have to *define* friendship in terms of justice. Indeed, justice and a host of other virtues and value-laden notions may relate to friendship in that they help to support and nurture it, but that does not entail that such value-laden notions are constituents of the definition.

Another possible problem presents itself. If one maintains that friendship is a virtue, then it would seem that our derivation could not proceed from purely descriptive premises. But, actually, such a conclusion is less than obvious. It might be that a virtue can be defined in purely descriptive terms while at the same time being value-laden. After all, this seems to be the case in Searle's examination of the

value-laden statement that a given argument is valid. Searle argues that such a statement is value-laden, even though support for the statement is purely descriptive.[52]

Finnis tells us that friendship goes beyond acting merely to realize one's own purposes, but includes acting for the sake of the purposes and well-being of the other individual(s). If that provision is included in the definition of friendship, then it would seem that our derivation would not proceed from purely descriptive premises – given that "well-being" appears to be value-laden. Indeed, from at least some natural law perspectives, "well-being" would appear to be an evaluative term in the moral sense. But whether it is to be included in the definition of friendship is another matter. The provision of acting for the well-being of another may offer guidance for maintaining and nurturing a friendship, but that would not establish that the provision is a constituent of the definition of friendship. And even if natural law ethicists were to offer a definition of friendship in terms of that same provision, it, nevertheless, might be the case that "well-being" can be defined from purely descriptive propositions.

Looking further down the road, derivations of moral obligations from a mere description of friendship may be only one among other sets of derivations. It would seem that those obligations can sit along side of other obligations stemming from friendship, and along side of derivations of moral obligations from descriptions of other categories that natural law ethicists take to be basic goods. For example, perhaps from a mere description of knowledge we can derive an obligation to avoid deception. This derived obligation could be viewed as a moral obligation, especially if knowledge or some aspect(s) of it is taken to be intrinsically valuable.

Can a derivation similar to the derivation of the moral duties of friendship be constructed from what natural law ethicists take to be one of the other basic goods? Let us examine the natural law category of "knowledge," though, unlike the category of "friendship," it does not seem that this derivation would proceed from merely non-evaluative premises – assuming, that is, that "knowledge" is to be defined in terms of "justified true belief." Limiting our examination here to deductive knowledge, how might the derivation proceed? We might begin with an epistemological examination of a particular belief or truth claim. It would seem that acknowledgment of the belief or truth claim, as a belief or truth claim, would be made from within the institutional fact of "knowledge." And if "knowledge" is to be defined in terms of "justified true belief," we might also observe that, included in the very meaning of the institutional fact of "knowledge," is the obligation to pursue the truth and to avoid undermining knowledge. After all, if one is not seeking truth in the type of investigation in question, or if one is not attending to the justification of the belief under examination, then one is not seeking knowledge. The conclusion that one has an obligation to pursue the truth would follow from a meaning rule within a system of constitutive rules, which would include rules related to basic human capabilities and inclinations. It would seem that these "basic human capabilities and inclinations" could be explained in strictly descriptive terms, and thus there would be no evaluative premises there. But from among the socially constructed elements of the meaning of "knowledge," there may be an evaluative

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[52] Searle, *Speech Acts*, pp.175–76. I believe that this important point is overlooked by Witkowski, who appears to be suggesting that no evaluative statements can be *justified* on the basis of purely factual statements.

component. If "knowledge" is to be defined in terms of "*justified* true belief," that seems to imply that there is some evaluative criterion concerning the adequacy of the evidence for the truth of the belief in question. Obviously, this evaluative component would not constitute a moral evaluation. Thus, from an examination of a given belief or truth claim within the institution of knowledge, and from descriptions of human nature and other constitutive rules (which would appear to include an evaluative, non-moral component, which perhaps can be derived from purely descriptive premises), it would seem that we could deduce obligations to pursue the truth and not to undermine the acquisition of knowledge. It would also seem that these obligations would be moral obligations, since they would not be merely self-regarding, and since it would also appear that our duties to pursue truth and to avoid undermining the acquisition of knowledge would at least sometimes override other duties – perhaps certain moral duties associated with "friendship." Moreover, "knowledge," which, like "friendship," would seem to involve a network of both biological and social facts, could be intrinsically valuable. Despite the fact that there might be some socially-constructed elements to it (i.e., rules pertaining to the definition of "knowledge") this "good" could have more than mere use-value to human beings. It could be an intrinsically valuable good, as well as an object of the natural propensities and capabilities of human beings.

Consider Searle's observation that the statement that an argument is valid is, itself, an evaluative statement – and that evaluative statement, Searle points out, follows from descriptive statements. Searle also points out that we can take the statement that an argument is valid to be evaluative, since the very notion of validity involves "what one is *justified* or *right* in concluding, given certain premises."[53] If we accept these points by Searle, and add to them a definition of "knowledge" in terms of "justified true belief," what might follow? It just might be that the notion of "justification," which would be based on the definition of "knowledge" in terms of "justified true belief," can be given a purely descriptive definition. In other words, following Searle's lead, it might be that from mere descriptions we can capture the meaning of "justification" in this context. It also might be that a particular justified true belief within a deductive system can be arrived at from purely descriptive premises. Thus, based on the assumptions made here, the statement that a belief or truth claim is justified might be deduced from purely descriptive premises, and the very meaning of "justified" in this context might be explained in purely descriptive terms.[54]

But even if this is not the case, that is, even if there is an evaluative component to the institutional fact of "knowledge" that *cannot* be accounted for and derived from purely descriptive premises, it still appears that a derivation could be constructed, resembling the derivations constructed for "friendship," which moves from purely non-moral premises to a moral conclusion, with the premises consisting of descriptions along with that non-moral evaluative component. And Searle's attempted derivation from purely descriptive premises to an evaluative conclusion would provide the inspiration for acknowledging the possibility of such a derivation.

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[53] Ibid. Original emphasis.

[54] See Ibid., pp.131–49.