

Race as an Institutional Fact

The question of whether race is a legitimate category has been the focus of lively debate in the philosophical literature. Few theorists, however, have brought work on social ontology and collective intentionality to bear on this debate. In a 2004 paper, Ron Mallon attempts to take seriously the ontological questions posed by the race debate. Mallon's conclusions, however, are pessimistic. He argues that any adequate account of race must meet three constraints, but that no account can simultaneously meet all three. The *passing* constraint requires that our account of racial membership be able to deal with the fact that persons who are treated by others as belonging to one race, may "in fact" belong to a different race. The *no traveling* constraint requires that our account of racial membership be able to deal with the fact that a person may belong to a particular race in one culture, but to a different race in some other culture. The *reality* constraint requires that our account allow racial designations to enter into explanations of how race affects people's lives.

In this paper, I argue that an account of race as an institutional fact, based on Searle's theory of constitutive rules, can satisfy all three constraints. According to Searle, we can understand social facts as constituted via the following constitutive rule, "X counts as y in context C." Using Searle's constitutive rule, we can say that a person is, for example, "black" iff he or she has some features ($x_1, x_2 \dots x_n$) and someone with these features counts as "black" in this context.

This account allows for passing. As Searle points out (1995, 32-33), some status functions apply to types, not individual tokens. Thus, we can mistakenly believe some particular person is "white," while in fact according to the rule, she is "really" black. Second, the status account of race explains why race may not travel. Simply because a person with features is $x_1, x_2 \dots x_n$ counts as "black" in one context, it does not follow that she will count as black in another cultural context.. Finally, the institutional account lets us understand the reality—the causal power—of race. As Searle is at pains to emphasize, function statuses have genuine social power. The fact that we treat certain persons as belonging to particular race places them in a complex of social powers that have real world consequences.

This account can deal with another puzzle that Mallon poses for an ontological theory of race—the fact that in some cases race *does* travel. For example, he notes that we may compare the conditions of "blacks" in one region to the conditions of "blacks" in some other region (with regard to, for instance, health care, wealth, education level). However, the institutional account offered above gives us a simple explanation of how some features of race can travel. First, given that the constitutive rule picks out some features ($x_1, x_2 \dots x_n$) that count as being y, we can compare persons cross culturally with regard to those features. That is, we may compare persons with regard to features $x_1, x_2 \dots x_n$ across cultures without concern with whether or not they "count as y" in all of those cultures. Second, we may wish to focus on persons who have the same status in different societies—that is those who are picked out by the same "y" status. Thus, when we talk about "whites" cross-culturally we may mean those persons who are treated as white, even if the persons in question would not be treated as white in each other's cultures. So, not only does the institutional account allow for both the "no traveling" of race and the "traveling" of race, it shows how race may travel in two different senses.

Interestingly, Mallon considers an account (what he calls the Folk Objectivist Institutional (FOI) account) very similar to the account I offered above. However, Mallon rejects the FOI account because it cannot account for the ubiquity of racial categorization. If he is right with regards to FOI, then the same objection will hold for the institutional account presented above. His argument goes as follows:

E1. The institutional principle requires that for a person to be a member of race R, they must be at a site where the concept of R is employed.

E2. But, where the concept of R is a racial concept constituted, in part, by the institutional principle, there are no sites (except possibly near philosophers) where such concepts are used.

E3. Thus, no one (or almost no one) is R.

This argument crucially depends on E2. The idea seems to be that if some concept is constituted by a principle, then people have to have the principle in mind. It is important to be clear here what we mean when we say that the existence of such social institutions as race depend on people's beliefs about it. As Searle points out, "in the very evolution of the institution persons need not be consciously aware of the form of the collective intentionality by which they are imposing functions on objects" (1995, 47). People simply need to act in ways which treat entities with certain features as having particular social roles or functions. In this case, they need only treat persons with certain phenotypic features, family relations, etc. as being of one race or another. They do not need to be aware of either the constitutive rules or even that race itself is a social fact. They may have completely false beliefs about the ontology of race—what matters is their beliefs about who "is" or "counts as" a member of a race and as a matter of fact that such racial designations serve a social function.

In conclusion, Ron Mallon has noted that there are a number of interesting facts about race that we want our ontology of race to be able to deal with. Happily an institutional account of race not only can deal with such facts, but offers enlightening explanations of them.