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THE EXISTENCE OF INSTITUTIONS---AND ITS RELATION TO RIGHTS

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ABSTRACT

This paper considers the relationship of institutions to rights. Many consider legal and other institutional to be the paradigmatic rights if not the only rights. I argue against this position in a variety of ways. Much of my discussion focuses on a central type of right referred to as a claim-right. Crucially, one with a claim-right to an action has the standing to demand that action of the one who will perform it. I consider how it is that those who make informal agreements accrue claim-rights against each other to the actions specified in the agreement. I argue against the two most prevalent types of account of this---the moral and the institutional or conventionalist approaches---and in favor of an account in terms of what I refer to as joint commitment. Finally, alluding to a standard distinction between institutions that “exist” and those that do not, I consider the bearing of institutional existence on the possession of claim-rights. I focus on three distinct but related accounts of institutional existence, including Hart’s influential account in *The Concept of Law*.