A Realer Institutional Reality: Deepening Searle's (De)Ontology of Civilization

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Abstract

This paper puts Searle's social ontology together with an understanding of the human person as inclined openly toward the truth. Institutions and their deontology are constituted by collective Declarative beliefs, guaranteeing mind-world adequation. As this paper argues, often they are constituted also by collective Assertive beliefs that justify (rather than validate intrainstitutionally) institutional facts. A special type of Status Function-creating 'Assertive Declarative' belief is introduced, described, and used to shore up Searle's account against two objections: that, as based on collective acceptance, Searlean social ontology cannot make sense of dissenters, and that it, as its deontology is all game-like, implies a legal positivism and thus cannot make proper sense of the moral import of sociopolitical institutions. This change is necessary to deepen social ontology's understanding of human societies and to accurately describe many social, religious, and political institutions as constituted from the perspectives of participants and dissidents.

 Keywords: social ontology; civilization; beliefs; power; normativity; dissent

Human-style sociopolitical orders are made possible and inevitable for us by our being rational animals. Not just the sterile ability to follow self-imposed rules in solving a logic game, human rationality operates through an inclination to get at the truth of things. This proclivity fuels infants when learning to crawl, listen, and talk, and it drives us still as adults, whether we are settled deeply in attentive openness to an important something or 'distracted from distraction by distraction'.[1] Robert Sokolowski has argued that this 'essential honesty, the rudimentary love of truth', which he terms *veracity*, 'specifies us as human beings'.[2] Human choice is founded on it: only because things appear to us a certain way and we can want them to appear *truthfully* are we able to exercise freedom humanly, answering to the way things are.[3] As social

animals, we show this orientation to truth also in our lives together. In the structure of our civilizations by which we order our lives communally, human animals respond together to the way we believe the world to be. What we believe about the world plays itself out in how we, individually and communally, live.

This essay attempts to fit the human as veracious animal into John R. Searle's constructivist account of institutional reality, an account which, he provocatively claims, articulates the structure of civilization.

Searle would not use Sokolowski's terminology according to which veracity – *eros* for truth, a rudimentary honesty – is the root of human rationality. But this view of the human being as inherently oriented toward truth is not alien to Searle's philosophy. According to him, 'all intentionality has a normative structure'.[4] For example, an intentional state like a perception or belief, in representing its conditions of satisfaction as holding in the world, is essentially subservient to the norm of truth. Furthermore, it is not just that the human animal with such an intentional state is in principle – from an external point of view – judgeable according to this standard because the truth norm is implied logically by his intentional state; rather, *concern* for the norm is inherently part of the intentional state. Searle writes,

> If *I* have a belief, I cannot be … indifferent [to its truth or falsity], because it is my belief and the normative requirement for truth is built into the belief. From the point of view of the animal [with the intentional state], there is no escape from normativity. The bare representation of an *is* gives the animal an *ought*.[5]

We cannot not care about the truth of our beliefs. Furthermore, for Searle the willingness to submit ourselves and our beliefs to the truth (even though the truth is often 'oppressive' and there are facts we would rather not face[6]) is a basic form of reason. Rationality sometimes involves following a procedure for trying to get our intentional states to live up the norms that belong to them, but there is also a non-procedural 'recognitional rationality',[7] the ability simply to accept the truth when there is proper evidence. Finally, the normativity of truth enters into our acting, not just our thinking, lives. For Searle, the responsible self, the free agent acting on reasons, cannot just have desires and action intentions, but must also have beliefs, and the beliefs that factor into desires, reasons, and actions are 'answerable to the facts'.[8] Thus, in free responsible agency the self is responsible for jumping the gap between motivators and action, so he is responsible for his action, but he is also, as acting on reasons that include beliefs, 'responsible to how things are in the real world'.[9] Therefore, for Searle, as for Sokolowski, an orientation

toward truth is built into us, namely, into our intentional states. Of course people often fail in various ways to get the truth or to be truthful or to answer appropriately in action to the way things are, but these are failures only because situated within the basic possibility of veracity.

I wish to put this conception of the person to work in a Searlean account of institutional reality in a way that Searle has not done: the human inclination toward truth surfaces in a certain type of institution, namely, when the human beings who accept the institution (and thereby constitute it) accept it *because* they believe it to be true, to be a mere recognition of facts, to rest on and be justified by a state of affairs independent of their social creations. Of course, these claims might be often, maybe always, false. The point is that some institutions are constituted by truth claims and cannot be explained philosophically without reference to those claims.

In fact, Searle's *constructivist* account of institutional reality may seem to rule my claim out in advance. Because institutional reality is created by our intentional states, it seems out of place to treat institutions as attempts at truth, i.e. at accurately representing a reality independent of our intentional states. Rationality and its normativity surface in Searle's account of institutions mostly as the ability to impose obligations on ourselves and to recognize the obligations we have created. I think that a different, deeper sense of reason and its normativity is also operative in some human institutions: our care about the truth, our concern to put our social creations in line with truths independent of our creations. In making this argument, I will have to show that some institutions involve truth claims about intentionality-independent reality, and I will have to show how these truth claims fit in with the logical structure of the intentional states that Searle claims constitute institutional reality. In this way I hope to remain true to Searle's basic conception of the construction of civilization, and to deepen it.

1. Searle's Deontological Ontology of Institutions

In his newest work, *Making the Social World: The Structure of Human Civilization*,[10] Searle has refined and elaborated his influential account of 'institutional reality', that part of the social realm composed of status functions. A status function is like a tool that people use to distribute among themselves rights and obligations (which Searle calls 'deontic powers'). For example, that a certain piece of paper is a dollar bill and that a certain person is a governor are 'institutional facts' or status functions because dollars and governors, by having collectively bestowed identities (or statuses), distribute rights and obligations that work only because collectively accepted. All status functions are analysable into

the deontic powers that accrue to persons and that provide the desire-independent reasons for action that order civilized human life.

Searle's main point in *Making the Social World* is that these institutional obligations and correlative rights are always created by collective beliefs with the form of speech act Declarations.[11] This is an important claim, and in this paper I hope to clarify and forestall some of its possible implications. A Declaration is a speech act with double direction of fit – mind-world adequation is guaranteed because the fact represented is created by the same speech act.[12] When a bride and groom exchange vows they make themselves wife and husband, with the obligations and rights that define the institution of marriage. Not all status functions are created in explicit speech acts, but according to Searle they all exist by way of (continued) collective representations with the same form as speech act Declarations.

Because communally recognized deontic powers created by collective Declarative representations are the fundamental elements of institutional reality, we can say that ultimately this domain of the world is based on desire-independent reasons for action; individual rights; obligations to others; collectively created power; or communally recognized normativity. All of these are correct 'spins' on Searle's building blocks, but we get a different feeling for his big picture of civilization according to which aspect of 'collective Declaration-created deontic power' we focus on. It is not surprising, then, that Searle's account has suffered attack from opposite quarters.

Some people accuse Searle of being insensitive to those people within a group for which a status function exists who dissent from the institutional system of rights and obligations. Searle insists that this is a simple misunderstanding:

> People frequently go along with social institutions that they disagree with, and may even wish to destroy ... Acceptance, in short, does not imply approval ... There must be collective acceptance of a status function according to the formula. And one can have such collective acceptance even in cases where most people, or even everybody disapproves or thinks it is a bad thing.[13]

Because the deontology constitutive of institutions is not moral[14] and collective acceptance does not mean endorsement, Searle thinks his account makes adequate room for dissenters.

Others accuse Searle of being insensitive to the moral dimension of sociopolitical institutions. If one approaches Searle's account with an eye for ethics, it seems to assume a legal positivism or cultural relativism because the oughts functioning in institutions exist and work only as

socially recognized. All social institutions with their deontology seem in Searle's account akin to games with their make-believe deontology because the roles and rules are fabricated by society. One has a collectively created and recognized obligation to pay (in Monopoly money) for landing on Park Place, but the whole game is in a mode of play; I have a similar obligation to pay (in US dollars) for the cup at the coffee shop, but the whole situation is in 'we intentionality'-relative mode. Leo Zaibert and Barry Smith call this 'soft normativity' and criticize Searle for clearing no space in institutional reality for moral normativity.[15] The Searlean response would probably be that status functions are essentially intentionality-relative, and so the deontology involved in their functioning is essentially intentionality-relative.[16] By definition a status function operates beyond any physical substrate's brute or inherent causal powers because it operates only by *deontic* powers, which work by motivating people to act; to be efficacious these powers need to be recognized collectively by the people involved in the activity. There can be no such thing as *real* money if we mean something that inherently people have a right to in exchange for the coffee we want from their shop.

I think both of these objections are partially correct and incorrect. By expanding upon how legitimization works within Searlean institutional reality, we can improve our social ontology's response to them. I articulate below how status function-validation works within Searle's current account. I then argue for an additional type of status function-constituting Declarative belief. By providing a deeper type of justification for institutional facts, this new class of institution-constituting belief will allow a Searlean social ontology to make better sense of dissenters and of moral normativity within institutions.

2. Validating and Justifying Status Functions

Within an institution, we can explain a particular institutional fact by appealing to the Status Function-Declarative beliefs that make it so. Usually, status functions hang together in systems, such that some explain the legitimacy of others. I will call this type of legitimization *validation*. For example, we can validate why we accord Barack Obama the right to command the United States Army by the fact that he is the president; we validate that fact by appealing to the vote of the electoral college in December 2008 and his January 2009 swearing in to office; we validate these facts by appealing to the text of the Constitution of the United States. The Constitution is itself another status function that we use to distribute deontic powers to persons, and it does so by articulating rules that people in the United States recognize as valid. How do we validate the Constitution? We appeal to still more status functional actions, namely the ratification of the Constitution by the votes of the conven-

tions of the several states in 1787–1790. We can validate this procedure by pointing back to the Constitution, namely Article VII, which Declares that a vote by the conventions of nine states will count as ratification. Here we have a circle. (All institutional facts are, according to Searle, self-referential.[17]) The Constitution is valid because people accept that the Constitution is valid. There seems to be no further status function to appeal to: it just is so, because we believe it is so.

This acceptance is a collective Status Function-Declarative belief that creates the deontological reality of the thing it represents. In Searle's current account, within institutional reality all legitimizations bottom out in such beliefs. Social ontology seems to stop here, where we feel vertigo from realizing that our institutions (and ourselves insofar as our personal lives are interwoven with them) hang in thin air, sustained only by a community's 'because we say so'. And in this 'say so', as in all Declarations, the community cannot be wrong. Mind-world adequation is guaranteed.

Though Searlean social ontology seems to reach the end of its rope with rawly factual acceptance by a population, reflection on the foundations of institutional reality need not stop here, because the deontic ontology of socially created reality borders other philosophical domains. We can ask other foundational questions that bear on the ground of our social world, for example, questions about the ethical oughts and ought-nots that apply overall to the lives of reason-bearing persons and questions also about the world as a whole in which our species of rational animal finds itself.[18] Moreover, it is not only philosophers who ask and answer such questions.

By following along the validations for their institutions, people will come upon institution-defining Declarative beliefs that no longer have further Status Function-Declarations to validate them. People usually turn to other sources for legitimization – for example, myths of origin, theories of cosmic order, philosophy, ideologies, revelations, or ethical principles – in order to say, '*not just* because we say so'. I will call this type of legitimization *justification*.[19]

For a vivid contrast between the way standard status function-validation works and how these other justificatory sources work, contrast the Declarative statement concluding the Declaration of Independence ('We … declare, That these United Colonies are, and of Right ought to be Free and Independent States …') or the Declarative statements in the Constitution ('The Ratification of the Conventions of nine States shall be sufficient for the Establishment of this Constitution …') to the statement of 'self-evident' truths in the second paragraph of the Declaration of Independence. The 'truths' there listed may or may not be true; what is significant is that they functioned for the community as the beliefs *that made possible* for the people who accepted them the Status

Function-Declarations that followed. It seemed to those people that they could declare themselves as independent states because they held certain beliefs about human beings and the nature of government. These beliefs attempt to get at intentionality-independent reality, and so are not in themselves Declarations. But the reality represented by them has normative import such that they can function within the society also as Status Function-creating Declarations.

'We take these truths to be self-evident ...' is a collective Assertive speech act articulating what the authors took to be both true and (in Jefferson's words) 'an expression of the American mind'.[20] By appealing to these shared beliefs to justify their actions, the authors *used* the facts asserted *as a status function* that cleared the logical space for the subsequent Declarative speech act dissolving the colonies' allegiance to the Throne. In the children's game Simon Says, those imperatives and only those imperatives from the leader prefaced by 'Simon says' are valid commands: saying 'Simon says' is a speech act move within the game that gives the subsequent speech act a special status. The authors' appeal to these 'self-evident truths' before their Declaration of independence functioned something like this, except that it was the truth-content of the community's convictions (whether or not they were stated), rather than another play within the game, that established the validity of their subsequent move.[21]

In a similar way, for ancient Egyptians beliefs about cosmic order and Re the sun god *made possible because they helped define* the status and institutional powers of Re's descendant, the Pharaoh, and for Catholics beliefs about the divine establishment of Simon Peter as the leader of the apostles make possible because they help define the status functional powers of the papacy. These beliefs are not just part of a network of social beliefs in which the institutions also appear. The key point is that such beliefs define statuses that determine certain persons as possessing certain deontic powers capable of functioning only if collectively recognized. These deontological statuses lack purchase power unless believed. Yet they are believed to originate not with collective recognition but with the nature of things, thus putting a stop to the search for another principle to legitimize them.

These beliefs function as a kind of ur-constitutive rule or assertion-grounded Status Function-Declaration. We shall call them Status Function-Assertive Declaratives. To be a Status Function-Assertive Declarative, a belief must be about intentionality-independent reality but must provide the constitutive conceptual ground – the definitive statuses and deontic powers – for an institution. If such a belief is put into the form of a constitutive rule, where X counts as Y in C, the X is seen as *justifying* the Y status, either because X is believed to *in itself* have the Y status or because X is believed to call for the Y status, such that

the connection between X and Y is seen as not merely conventional. Considered from the point of view of social ontology or anthropology, etc. (since these disciplines pay attention to the social functioning of such facts rather than to the truth or falsity of the associated beliefs), the believed-in states of affairs are self-effacing: they are conventions that cover over their conventionality.

Whereas validation works within the socially spun web of status functions, justification works because these convictions serve as the 'anchor-points' of the web, connecting it to something (purportedly) not socially created. The name 'Status Function-Assertive Declarative', used in this paper, identifies the logical structure of this class of belief within Searle's philosophy of mind, but we would prefer to call them *endoxic anchor-points* – mixing into Searle's social ontology the spider web-metaphor and an Aristotelian notion of honored opinions. Because Assertive-Declaratives purport to connect social order with intentionality-independent but deontologically significant facts, they are often part of a network of cosmic convictions, beliefs about the order of the world and our place in it, about how reality speaks to us, sets us ends to measure our purposes, or fails to.[22]

3.   Assertive Declaratives

It may seem that my category of foundational Status Function-Assertives Declaratives does not fit into a Searlean social ontology. According to Searle all status functions are constituted by Declarative beliefs, but the following are simple Assertives, with one-way mind-to-world direction of fit, and may be false: 'The Pharaoh is the son of Re, the incarnation of Horus, and so we should obey him'; 'As the successor of Peter, Benedict XVI possesses a certain authority guaranteed by God'; 'Governments derive their just powers from the consent of the governed'; 'All persons possess natural and equal human rights'. If these were Declarations, they would be incapable of falsehood, because collective acceptance of them would cause mind-world fit. How then shall we describe the way such beliefs function to undergird a community's acceptance of deontic powers within institutions?

In *Expression and Meaning* Searle mentions an interesting hybrid speech act: the Assertive Declarative. The umpire's calling of a strike is a Declaration because when he names a pitch a strike it makes the pitch function as a strike so as far as the game goes. But he is supposed to call strikes only those pitches that are strikes defined independently of his decision. In such cases, the person issues 'an Assertion with the force of a Declaration'.[23] The umpire is clearly performing a status function-creating Declarative speech act, but his Declarations work only because at least in general we believe that they are also truthful Assertives,

rather than arbitrary exercises of power.[24] The functional status created by the Declaration 'Strike!' is supposed to mirror a pre-Declaration status. Similarly, the facts represented in Status Function-grounding Assertive beliefs do double duty, functioning also as status functions; the Assertive beliefs in them function also as Declarations creating conventional statuses and social deontic powers. These facts have double lives similar to the Asserted and Declared strike, except that their double life is in and outside the institution. Calling a strike is an intrainstitutional Assertive Declaration, because a strike is defined by a preexisting set of collective Declarations (the rules) that define and regulate the game. A status function-justifying Assertive belief has the force of a Status Function-Declaration (constitutive rule), but its Declarative aspect is supposed to mirror something independent of human institutions.[25]

Such convictions are superpowered Assertives: when believed by a community they create for that community status functions with deontic accoutrement. The status functions they constitute are also superpowered in that they are able to justify other status functions or entire systems of them, imbuing the institutional facts they ground with a tinge of intentionality-independence.

A few differences between Status Function-Assertive Declaratives and their superpowered status functions, on the one hand, and standard Status Function-Declaratives and their status functions, on the other, should be noted.

(a) A standard status function results merely from a Declarative belief, and the deontology involved is non-moral soft-normativity grounded only in the way we do things or in one's decision to participate in the system. Superpowered status functions are believed not to result from the beliefs of the community, and the deontology is believed to bind us independent of our ways of doing things or our decisions to participate.

(b) A standard Status Function-Declarative usually has the form 'X counts as Y in C', where the Y status explains X's deontic significance. In cases of intrainstitutional validation, there is a scaffolding of institutional facts, where the conventional status that is cashed out in action is explained by further conventional statuses. In the case of a Status Function-Assertive Declarative, the legitimization does not appeal to another conventional status; or rather, the conventionally accepted status that does the explanatory work is denied to be merely conventional, and so it justifies rather than merely validates the deontic powers. The justification works in the other direction. Instead of the status Y explaining why X has been anointed with certain deontic import, the X term does the explaining: X justifies Y.

(c) For standard status functions, seeming is prior to being because the Y status's existence results from the community's belief in it. Conse-

quently, for standard status functions, the beliefs are self-referential (for example, in order to be money, something must be believed to be money). In contrast, superpowered status functions bend the 'X counts as Y in C' formula, and try to escape from self-referentiality. The Pharaoh by being accepted as the son of the god Re accrued certain deontic powers. But the Pharaoh did not just 'count as' the descendent of Re; purportedly he *was* so, innately occupying a given place within cosmic order and possessing certain deontic powers that (in the eyes of the Egyptians) *should have been recognized*. Peter's successor in the bishopric of Rome does not just count as the head of the bishops (i.e. the successors of the apostles) and of the Church with certain deontic powers; he purportedly is such. Purportedly, certain powers he has (e.g. to infallibly articulate the Tradition of the Church in matters of faith and morals) are not created by the recognition of this power. For those who accept the Status Function-Assertive Declarative, the arrow runs the other way. According to Searle, in the institutional domain of reality, seeming is prior to being. This remains true in a sense for superpowered status functions, since the functional existence of the powers within the community requires collective recognition. But the beliefs that constitute the status function (rightly or wrongly) put being prior to seeming.

Status Function-Assertive Declaratives can function as grounding deontology within a given community only if accepted, and so social ontology properly identifies them as further Status Function-Declarations (constitutive rules). But that does not mean that they are just 'made up', merely constitutive rules like others grounded only in collective acceptance; that would make them false. They are appealed to – rightly or wrongly, and who is social ontology to say that they are all necessarily wrong? – as giving us reasons to accept them independent of collective acceptance. To say that they are false, a person would have to leave the attitude of social ontology to consider them as truth claims on their own terms. From the point of view of social ontology these bedrock beliefs seem to function as Declarations with double direction of fit. But, ironically, they function only because they are accepted as simple Assertive beliefs, having mind-to-world direction of fit.

This is a logical analysis of this type of belief. Such beliefs need not be true in order to have this logical structure or to work for a community, but in order to work as justificatory they do need to be accepted as true – and that means, *actually believed* by a critical mass of the community. Whereas other status functions can operate with a watery practical acceptance (an understanding of the collective Declaration that may fall short of endorsement), superpowered status functions require more than this because they are based on an Assertive belief, a truth claim independent of the collective Declaration.[26] If the Assertive content is disbelieved by a critical mass of the community, the continued functional

acceptance of the Declarative aspect of the constituting belief is precarious: these justifying assertions become cant and the actions they inspire become a masquerade of the institution. Such an institution may morph into some hollowed out façade, a relic accumulating some essentially different meaning for the participants. If it does not grow into something else and sustained by a new set of constituting beliefs, such a rotted-at-the-roots institution is ripe for falling or being felled.

4. Searle's Foreshadowings of Status Function-Assertive Declaratives

Although he does not articulate the issue the way I have done so here, Searle delves into this territory of social ontology in the final chapter of *Making the Social World*, where he addresses the question, are human rights status functions? His answer is a qualified 'yes'. Human rights are recognized only within certain historical communities and function only if humans are collectively accorded a status with deontic import. Yet, we accord humans this status because of the preinstitutional facts about them that *we believe* to be normatively binding. In my terms, natural human rights are superpowered status functions and the beliefs that sustain them in the community are Status Function-Assertive Declaratives. For those like Searle who accept human rights as just, the socially created normativity is a response to and an institutional recapitulation of the prestatus normativity our society recognizes in human persons, namely, that their very existence bestows obligations on us, i.e. on all other humans. The status 'human' as bearer of human rights (and obligations) names a socially functioning status, but it is laminated directly onto the preinstitutional fact of being human.

The crucial claim made by Searle in arguing that human rights are status functions is, 'the justification for human rights cannot be ethically neutral'.[27] Justification of human rights, Searle argues, must be based on a conception of human nature and on our ethical judgments about what is especially valuable in human life. By saying that a certain type of status function must be ethically legitimized and based on human nature (rather than merely conventionally validated, intrainstitutionally legitimized, by other constitutive rules), Searle suggests that in the minds of the community that recognizes it, the deontology of such an institution must function as not-just-created deontology. Of course, our society might be wrong about our ethical principles, and for the sake of neutrality a social scientist or philosopher might be tempted to identify our institution-justifying convictions as just more Status Function-Declarations. But it would be an inadequate philosophical description to assimilate them completely to other constitutive rules, which are legitimized simply with reference to the way a particular human community

does things. Because they have a different logical structure, even from within social ontology we can see that they are special.

In *The Construction of Social Reality*, Searle comments that the members of the community constituting through their beliefs a status function may not understand the mechanism by which they do so. He continues with an example: 'They may think that the man is King only because he is divinely anointed, but as long as they continue to recognize his authority, he has the same status-function of king, regardless of whatever false beliefs they may hold'.[28] This comment survives my addition of Status Function-Assertive Declaratives unscathed, but my addition does more to explain the situation. The Status Function-Assertive Declarative in this case is that a certain man – let us call him, 'David' – is king because God has anointed him such. Just as human rights can be status functions in a society whether or not the ethical justification is sound, David can occupy the same status function even if this belief is false, but not if the belief is not believed. However false or true, the Assertion helps constitute the status function as the status function it is.[29]

Searle wanders in to Status Function-Assertive Declarative territory also in the 2007 paper 'Social Ontology: The Problem and Steps toward a Solution', where he analyses 'supernatural status functions', focusing on the papacy.[30] He claims that it is 'clearly an institutional fact because it involves the collective acceptance of a certain class of deontic powers', and points out that, according to Catholic belief, the status function is created in a divine Declarative speech act rather than in the collective Declarative beliefs of the Church: 'Many institutional facts depend on belief in the supernatural'. He continues, 'Notice that there is no neutral way to describe' such institutional facts: the system 'works because there is collective acceptance of these institutional facts, and in that respect they are like all other institutional facts. But this is a tendentious claim on my part. For the faithful the collective acceptance is based on miraculous truth'.[31] Though I agree otherwise with his analysis of supernatural status functions, appealing to Status Function-Assertive Declaratives yields a more accurate account of them, removing the need for social ontology to describe them tendentiously. By analysing sacred status functions in the way Searle analyses human rights, we are able to offer an account that describes them neutrally (and more respectfully). We can point out, in an ethically neutral way – that is, without saying that the ethical justification is true or false – that human rights cannot be justified in an ethically neutral way. Likewise, we can point out that sacred or supernatural status functions are constituted with the help of Assertive beliefs; social ontology need not (and cannot) adjudicate those beliefs as true or false.

5. Responding to Objections

We are now in a position to see why it misses the mark to attack Searle's ontology as a legal positivism open only to the soft normativity typical of games. Along the lines of this attack, describing human rights as status functions seems to deny the whole idea of natural human rights. Searle knows his position seems paradoxical, and explains why: 'The common mistake is to suppose that if something is intentionality-relative, then it is completely arbitrary'.[32] Though conventional, human rights are based on something other than our say-so. Of course, by definition, in order to function within a community a status function's deontology must be accepted by the participants, and so is *functionally* relative to the community's intentional states. This is not to say that the normativity is intentionality-relative *tout court*. Social ontology and ethics are related but must not be conflated.[33] The questions about whether there are forms of deontology that are valid independent of their being factually accepted in a given community and about whether the factually accepted deontology of a society should be morally accepted do not belong to social ontology's domain.[34] But *that* and *how* the deontology accepted by a society plays out in *defining* that society's institutions cannot be left out of social ontology.

Zaibert and Smith claim that it is 'a shortcoming of Searle's social ontology' that he 'tends to assume that there is but one type of normativity within the realm of social institutions', namely soft normativity.[35] Because soft normativity arises entirely from the highly contingent logic of the game or institution, it is highly defeasible and relatively easy to change, according to Zaibert and Smith. In contrast, sociopolitical institutions involve moral normativity. Consequently, 'Searle and our other authors [H. L. A. Hart and John Rawls] have maneuvered themselves into a position where they do not have the tools to draw the distinction between games and sociopolitical institutions'.[36] Quoting Rawls on 'practice rules' (which they show to be parallel to Searle's 'constitutive rules' and Hart's 'secondary rules'), they point out that in these accounts 'there is no justification possible of the particular action of a particular person save by reference to the practice'.[37] This may be fine for games and some other institutions, Zaibert and Smith suggest, but it is inadequate to account for the more serious institutions of human communal life.

It should be clear that Status Function-Assertive Declaratives add to the ontology of institutions, using tools internal to Searle's account of social reality and intentionality, a more robust kind of normativity. Or rather, this account argues that *belief* in such more robust types of normativity is constitutive of many institutions, while suspending judgment on all questions about whether any of these beliefs are true. By punting on the question of the truth of these convictions, this account

answers only part of Zaibert and Smith's objection. Still, it opens the space to answer their objection more fully, since we now have the tools within Searlean social ontology to discuss how institutions might be (or fail to be) grounded in hard, intentionality-independent normativity.

Moreover, this account allows us to recognize shades of institution-constituting normativity between hard and soft normativity. This is because Status Function-Assertive Declarative beliefs often are vague enough to require the community to determine creatively how to go about applying them.

The justification and grounding provided by Status Function-Assertive Declaratives may be more or less direct. Some justifications require a particular conclusion as the only possible course of action, while others leave a gap that must be filled in by the creativity of particular actors.[38] That a Status Function-Assertive Declarative belief justifies an institutional fact does not necessarily exclude the space and need for decisions about how to apply it concretely. For example, the US Constitution was ratified by the people of the several states not through already existing legislatures or through purely popular votes, but through state constitutional conventions, members of which were elected (by non-universal suffrage) specifically for that purpose. That the set of votes by such conventions was to count as the voice of 'We, the People of the United States' does not follow deductively from the society's belief in popular sovereignty. Though some procedure was necessary, which procedure was not immediately clear; so the authors of the Constitution designed one.

Almost any sociopolitical status function can be seen as justified rather than merely validated (in the senses distinguished in section 2 above) when we recognize that justification can work in this indirect way. Thus, this extended Searlean account of institutions can distinguish many shades of sociopolitical normativity, hybrids of moral and soft normativity, where validation implies some degree of justification given the collective assumptions about the ground of the group's practices.

Some object to Searle's 'collective acceptance' account of status functions by pointing out that many people within a society for which a status function exists dissent from the Declarative belief. Status Function-Assertive Declaratives allow us to better describe dissenters and thus respond to this objection. To see how, first let us survey the manners of dissent that make sense within an institution constituted, as a game is, merely by collective Declarative deontology.

In institutions not undergirded by Status Function-Assertive Declaratives justifying their deontology, there are two ways in which a dissenter might disagree with certain aspects of the system of deontology or with the whole institution. (1) He might not like the system due to his personal preferences and desires. He might wish a rule here or there were

different or wish that his society did not have such an institution or wish that his society did not pressure him to participate. For example, a little boy may hate tee-ball and wish his parents and friends did not expect him to play, or a pitcher in the National League may wish he did not have to go to bat. (2) He might disagree tactically. He might judge that some rule of the institution or even the institution as a whole does not really do what it is supposed to do. For example, judging from the standard of the social goals to which these institutional facts are meant to conduce, someone may think that the current bankruptcy laws are too lenient or too strict, or think that pitchers should or should not have to go to bat. In addition to dissenters, there may also be people who cheat or just abstain from participation for the same types of desire-dependent reasons.

None of these cases poses a problem for Searle's current account because they make sense even when the deontology defining a status functions is created *ex nihilo* by collective Declarative beliefs. If all deontology constitutive of institutions were soft normativity, these would be the only types of dissenters possible. But there are other types of dissenters, rule breakers, and sitters-out that do seem to pose a problem, or at least call for deeper treatment by our social ontology.

There are dissenters whose objections to a status functional activity are not merely preferential or tactical; there are people who do not follow the rules not because they cheat, but because the *status quo* status functions imply some belief in which they do not wish to implicate themselves; there are dissidents who sit out on principle *from within* their society rather than, out of dislike or apathy, drop out from the society or just do not join in the activities. These types of dissent require some truth claim to dissent from. Standard Status Function-Declarations (constitutive rules) are not 'true' and are not capable of falsehood, but have a self-satisfying double direction of fit. Because they assert truth claims, Status Function-Assertive Declaratives open up the possibility for deeper types of dissent and dissidence.

Consider the complex case of the ancient Christians in pre-Constantine Rome. They disagreed with the polytheistic claims buttressing the sociopolitical system and refused to participate in certain institutional activities (those which implied belief in Rome's civic polytheism), but they held other Assertive-Declarative beliefs that underlay *their* acceptance of much of the government's power. They were accepters in part, dissenting participants in part, dissidents in part. Because Status Function-Assertive Declarations give people truth claims to disagree with, they help us make sense of such principled and radical dissenters and dissidents and their various ways of expressing their rejection of an institution or aspects of it.

The insights of Václav Havel on dissent are useful here. He described the totalitarian system of power in Communist Czechoslovakia as a

'game'.[39] He meant that the system of power was (and everyone was aware that it was) constituted merely by everyone accepting behaviorally that its rules were the rules.[40] What was needed to make the game's status functions efficacious was not Assertive belief, but acceptance in Searle's sense. Here in Havel's description we have some confirmation of Searle's account, but the result was not civilization. By calling it a game, Havel did not mean that the system of power involved no truth claims.[41] For, as a sociopolitical order – and unlike a game – the system of power was something that should have been just and claimed to be so by pretending to be 'in harmony with the human order and the order of the universe'.[42] The panoramic slogans of the ideology disguised the system of power with the 'façade of something high'.[43]

Thus, Havel's description of his country's sociopolitical order does not corroborate Searle's claim that institutions are constituted merely in Declarative beliefs where mind-world adequation is guaranteed if accepted by the 'we'. Rather, the system was built upon, buttressed by, and required repetition of truth-claims that were capable of falsehood and, because they were in fact generally known to be false, required people to 'live within the lie'.[44] By breaking the rules of an institution built on ideology the dissident exposes it 'as a mere game' and shows 'everyone that it is possible to live within the truth'.[45] Dissent can serve, what governments should serve according to Havel, 'truth, the truthful life, and the attempt to make room for the genuine aims of life'.[46] Obviously, social ontology need not endorse Havel's view of politics. But it needs to make sense of this dissident experience as essentially putting into play human veracity. As Sokolowski comments, 'Certainly, the most demoralizing aspect of living under regimes like that of the former Soviet Union is the unremitting, comprehensive falsehood one must continually endure'.[47]

Assertions – with their possibility of truth or falsehood – form part of the intentional content of serious dissent and of the intentional content that constitutes the institutions from which people can seriously dissent. This fact may be less obvious to those philosophers who enjoy regimes that tolerate dissent well, that indeed affirm as an endoxic anchor-point the human right to dissent. It has been painfully obvious to philosophers, like Havel's mentor Jan Patočka, who have lacked the leisure to believe that speaking philosophically or acting politically could be 'child's play'.[48]

What is the alternative within social ontology to recognizing Status Function-Assertive Declaratives? If all institutional obligations had to be created explicitly by the agent for whom they were to function as obligations, then there would be less angst about labelling all institutional normativity soft. But this would limit the scope of Searle's analysis too drastically, and it is untrue to human experience.[49] Sometimes

institutional deontology accrues to a person who fills a role he has not chosen. In these cases, without recourse to some type of Status Function-Assertive Declarative connecting, in the minds of the people involved, the soft normativity to real normativity, institutional deontology would seem like the 'obligations' of a game – or worse, a game that people have been forced to play and that absorbs and structures a large part of their lives, but from which they would be unable to dissent in a deep way. People would be unable to affirm the conventional powers as just (or condemn them as unjust), because mind-world adequation would be guaranteed by the Declarative form of intentionality creating the power. Searle's description of institutional reality as based on collective Declarative beliefs is offered and should be accepted as an ethically neutral position, but if we were to refuse to recognize Status Function-Assertive Declaratives it would become an ethical theory of the legal positivist or cultural relativist type and thus fail to make proper sense of serious dissent.[50]

6. Civilization, Philosophy, and the Human Person

Searle has benefitted us all by highlighting a key feature of human civilization, the status function, and a particularly civilized way of organizing the human animal's common life, the social desire-independent reason for action. Sometimes these desire-independent reasons for action are merely collectively created powers; other times, they arise from communally recognized normativity. The different 'spins' on Searle's building blocks of institutional reality are appropriate for different institutions, but the most important institutions of a civilization do not bottom out in unjustifiable fabricated power.

Searle provocatively claims that his social ontology articulates 'the structure of civilization'. In Searle's account, a society is civilized insofar as it recognizes a heap of Searlean institutions. A civilization would be the social structure resulting from the sets of statuses, created by the group's intentionality, that distribute deontic powers among the group's members. Such institutions do seem particularly civilized, because they inject desire-independent reasons for action into how humans in the group interact. But in order to get to civilization in a fuller sense, we must add that this deontology is not all game-like.

By recognizing Status Function-Assertive Declaratives, we can understand that civilizations are not just heaps of collectively made-up power systems, but also structured by and continuously restructured by shared convictions. Especially important are those convictions about the origin and limits of just power and about how all human animals (especially those without much brute power like women, children, and dissenters) ought to be treated and ought not to be treated. It is these convictions

that sublimate brute power, making humane the interactions of human animals, and perhaps fit our conventions into a broader view of the cosmos and the person. By grounding far-reaching and life-significant communal institutions, such beliefs tend to be what makes *a* civilization coalesce into somewhat more of a whole. When we study a civilization or culture sociologically or historically, these beliefs and the roles and rules they constitute rightly take centre stage.

It is difficult to overstate the importance of this type of belief for actual human communities and their social realities. Status Function-Assertive Declaratives are the hinge, for the community involved, between normativity binding on us whether or not we accept it and the normativity we accept within an institution. For institutions without this hinge, the normativity must rest ontologically and ethically on collectively created power. The human person has the ability to live according to rules of his own making, and this is no mean thing, but he also has the ability to (attempt to) live in truth. A social ontology that refuses to recognize the role that Status Function-Assertive Declarative beliefs play in constituting the social world would assert that all institutions must be based on unjustifiable power. This would be untrue to the human person: though a person's cosmic and ethical convictions may often be wrong, he is capable of having them. Humans cannot avoid the question of truth, even in their social lives.

Statically considered, Status Function-Assertive Declaratives ground but are not grounded by other Status Function-Declarations. Historically considered, they have no simple relationship to other parts of institutional life. They share in what makes human social reality so dynamic, the reciprocal determination of minds and the intentionality-relative realities they constitute: we may be pushed into such foundational convictions by the momentum of our other institutional beliefs and practices, we may found institutions inspired by them, or we may drift into them or discover them independently and then challenge pre-existing institutions based on them.[51] When such foundational principles arise, they can either buttress, or reconfigure, or uproot the pre-given deontology of the society or of particular institutions within it. Moreover, recognizing Status Function-Assertive Declaratives helps social ontology make better sense of philosophy as a social phenomenon. One way philosophy got started historically and continues to get started in individual lives is in reflecting on the interplay of conventional and non-conventional realities and norms and on the difficulty of discerning the difference.

Reflecting on these foundational beliefs leads us beyond social ontology into ethics or beyond philosophy into decisions about truth-claims that may not be adjudicable by philosophical reason alone. It is part of what it is to be for human persons that we can and at our best

do seek understanding of foundations, and part of the dynamism of human social reality that it can be and at its best is open to principles beyond its own making. The structure and dynamism of institutional reality is partly based on the desire of humans to find justifications and to stretch out, beyond themselves and their fabrications, to know.

By recognizing that societies are governed by endoxic anchor-points – by more or less shared convictions about how the order of our lives connects up with orders beyond us – social ontology describes it borders. Our social ontology must, in order to honestly describe its domain, recognize that it may not provide the final answers to the human person's fundamental questions about social reality.

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Notes

1   T.S. Eliot, *Four Quartets* (Boston: Houghton Mifflin Harcourt, 1943), p. 17.
2   Robert S. Sokolowski, *The Phenomenology of the Human Person* (New York: Cambridge UP, 2008), p. 20. In Searle's terminology, we might say that this openness toward and delight in letting things show up to us and getting at the truth of things is part of the 'Background' that language and rationality in the fuller senses build upon. The 'Background' is Searle's name for the set of non-intentional capacities that support the activities of intentionality.
3   See Robert S. Sokolowski, 'Freedom, Responsibility, and Truth', in Richard Velkley (ed.) *Freedom and the Human Person*, Studies in Philosophy and the History of Philosophy 48 (Washington, DC: CUA Press, 2007), pp. 39–53.
4   John R. Searle, *Rationality in Action* (Cambridge, MA: The MIT Press, 2001), p. 182.
5   *Ibid.*, p. 182.
6   John R. Searle, 'The Refutation of Relativism' [online], available from: socrates.berkeley.edu/~jsearle/refutationofrelativism.rtf [accessed 10 July 2010].
7   Searle, *Rationality in Action*, p. 117.
8   *Ibid.*, p. 177.
9   *Ibid.*, p. 123.
10 John R. Searle, *Making the Social World: The Structure of Human Civilization* (New York: Oxford University Press, 2010).
11 See Searle, *Making the Social World*, pp. 13, 21. This is an addition to his account of the social world most fully articulated in *The Construction of Social Reality* (New York: The Free Press, 1995).
12 Note that having a double direction of fit does not make a Declarative 'true'. We should resist the idea that Declarations make themselves true by making their own truth-makers, because truth more properly belongs to intentional states or speech acts with the mind-to-world direction of fit, whose requiring conditions of satisfaction (i.e. whose meanings, the propositional contents of the states or the statements) are satisfied by facts that hold independently of the meaning. For this reason, truth seems to have no place in institutional ontology in Searle's account. We can make true or false statements about institutional reality once constituted, but the acts that con-

stitute them are as Declarations not under the norm of truth. This is a strong *prima facie* argument that an institution cannot be true or false, that human beings in making institutions are not responsible in this way to intentionality-independent reality. In order to overcome this argument, therefore, I must show (in section 3) that there can be a certain subclass of Declarative belief or statement for which truth is a norm. For more on Searle's analysis of truth, see *The Construction of Social Reality*, Ch. 9.

13 John R. Searle, 'Responses to Critics of *The Construction of Social Reality*', *Philosophy and Phenomenological Research*, 57 (2) (June 1997), pp. 453–4.

14 For Searle, institutional reality is essentially deontological (composed of rights and obligations), but it is not the case that institutional reality is already in Searle's account *morally* saturated and structured. Institutional rights and obligations, once created, are a class of 'desire-independent reasons for action' and though our ability to act on desire-independent reasons opens up the possibility of morality (Gustavo Faigenbaum, *Conversations with John Searle* [USA: Libros en Red, 2003], p. 146), not all desire-independent reasons are moral. Searle says the deontology of institutions is *not* specifically 'moral' (*Speech Acts* [Cambridge, MA: Cambridge University Press, 1969], pp. 176, 187; *Rationality in Action* [Cambridge, MA: Cambridge University Press, 2001], p. 194), and he implies that it may sometimes be *immoral* (i.e. we can create immoral and unjust institutions; see Steven R. Postrel and Edward Feser, 'Reality Principles: An Interview with John Searle', *Reason*, 31 (9) (February 2000), p. 16; Faigenbaum, *Conversations*, p. 151). Also, the rights and obligations constitutive of institutional life can be rightly trumped for various reasons, some of which may be moral (see *Rationality in Action*, pp.194–5, 122). Searle, who has not developed any specifically moral philosophy, has suggested that the concept of morality is rather vague and not fruitfully worked on until we accomplish solid analyses of practical reasoning (see *Rationality in Action*, pp. xvi, 182; Faigenbaum, *Conversations*, p. 146).

15 Soft normativity follows merely from rules that create an institution or practice: see Leo Zaibert and Barry Smith, 'The Varieties of Normativity: An Essay on Social Ontology', in Savas L. Tsohatzidis (ed.) *Intentional Acts and Institutional Facts: Essays on John Searle's Social Ontology* (Dordrecht: Springer, 2007), p. 159.

16 Institutional deontology is essentially intentionality-relative in that the rights and obligations exist only by being created ('accepted') by people via intentional states of the Declarative type representing them. For Searle, 'There are external facts in the world that provide rational grounds for action' (Faigenbaum, *Conversations*, p. 149); some of these have been created by us intentionalistically (e.g. past promises), and some of them are intentionality-independent (e.g. health needs). Regarding intentionality-relative deontology, in Searle's terms, we create the 'factitive entity', the external motivator, which is the obligation; we should then recognize it as obliging, such that it can ground our desire and internally motivate our action. Deontology that is *not* intentionality-relative would work the same way, except that it would start from an external 'factitive entity' that obliges us, whether or not we recognize it, and which we did not create intentionalistically. (On external and internal reasons for action, see Searle, *Rationality in Action*, pp. 114–26, 214–18.)

17 On Searle's claim that all institutional facts are circular or self-referential, see *The Construction of Social Reality*, pp. 32–4, 52–3.

18 Even this statement of mine might seem to beg the question that the world is, is of a certain kind, and is a certain type of whole. But my point is not about the world. My point is that the human proclivity to ask and attempt to answer such questions is significant practically and socially; it plays itself out in our institutions, because human beings tend to find normative significance in the answers they give. For example, Searle emphasizes that the rejection of external realism (of 'the view that the world exists independently of our representations of it') often features in anti-rationalistic arguments about how we should live and should rearrange our institutions (*The Construction of Social Reality*, p. 153; see also p. 197).

19 'Justification' here does not mean that the legitimization offered is sound, but that the legitimizing argument appeals to facts (Searlean 'factitive entities') that are purportedly intentionality-independent and deontologically significant.

20 Letter to Richard Henry Lee (May 8, 1825); in Paul Leicester Ford (ed.) *The Writings of Thomas Jefferson*, Vol. X, (New York: G.P. Putnam's Sons, 1899), p. 343. Reproduced by Cornell University Library, 2009.

21 According to Searle's analysis of the Declaration of Independence, there was no preexisting context where 'X counts as Y in C' giving colonial Americans the deontic power to separate themselves from the Crown. Rather, he describes it as a paradigmatic case in which a new status function is created by people deciding to act as though it exists (see *The Construction of Social Reality*, p. 118). This analysis is not entirely incorrect, since the Founders both had to hope that their Declaration would be recognized and had to fight for it. But Searle's analysis ignores the most famous part of the Declaration: its justification. The Founders believed they inherently possessed the right to do what they did, so the 'preexisting content' was (in their eyes) built into the nature of human beings and government. For further discussion of how Searle's treatment of political status functions skirts the issue of justification, see note 48.

22 For example, abiding by the Pharaoh's power was required by justice, but the ancient Egyptian understanding of justice had its place in a network of beliefs about order. Regarding *Maat*, sometimes translated as 'justice', Egyptologist Henri Frankfort notes: 'But it is a concept belonging as much to cosmology as to ethics. It is justice as the divine order of society, but it is also the divine order of nature as established at the time of creation' out of chaos. Thus, for the Egyptians, their 'state was not a man-made alternative to other forms of political organization. It was god-given, established when the world was created; and it continued to form part of the universal order' (*Ancient Egyptian Religion: An Interpretation* [New York: Columbia University Press, 1948; Reprint, New York: Harper and Row, 1961], pp. 54, 30).

23 John R. Searle, *Expression and Meaning*: *Studies in the Theory of Speech Acts* (New York: Cambridge University Press, 1979), pp. 19–20. The umpire calling balls and strikes is Searle's example.

24 The umpire's calling of balls and strikes is an instance of the 'certification' class of status function. In a certification, some authority tasked with finding the facts anoints some proposition as the facts. Sometimes these certified facts are accompanied by enabling or requiring a person to do something (see John R. Searle, 'Social Ontology: Some Basic Principles', *Anthropological Theory*, 6 (1) (2006), pp. 25–6, for his discussion of certifications and authorizations as classes of status function). It is not necessary to believe the Assertive content of every certification in order to accept the deontic signifi-

cance of a certification. A player can argue with the umpire about his calls, for example. Even if all the players disagree with a call the game will continue if they functionally accept the umpire's certification. If it were widely believed that some authority's Declarations were generally not truthful as Assertives, however, the institution either would be very vulnerable for collapse (perhaps people would stop playing the game) or would morph into some essentially different institution.

25 Stephen P. Turner ('Searle's Social Reality', *History and Theory*, 38 (2) (May 1999), pp. 211–31) argues against Searle that scattered and varied, individually held 'normativizing beliefs' can explain the normative element of institutions more simply than we-intentionality, or collective acceptance of the constitutive rule, does. For example, according to Turner a belief of the several people in the society that the King is divinely anointed can explain the normativity of the institution, so that we need not appeal to collective intentionality-created deontology. This point of Turner's is interwoven with his broader argument that we should eliminate collective intentionality from the account of institutional reality. I agree with Searle that collectively recognizing the deontology of the institution is essential to the interpersonal functioning of an institutional fact, and thus that some socially constituted normativity is involved in all institutional facts. To say that this collective recognition is in the form of a Declarative, as Searle does, might imply that all socially recognized normativity must essentially derive from only (be nothing but a) collective creation. Turner attacks this implication and believes it goes to the jugular of Searle's theory. It is a possible implication my account wishes to forestall. By forestalling this implication, we can make Turner's position *on this isolated point* complementary to rather than competitive with Searle's account. The form of an Assertive Declarative retains Searle's insistence that a status-cum-deontology must be accepted by the society and is constituted, as an interpersonally functioning fact, by this acceptance; at the same time, the form of an Assertive Declarative incorporates the 'normativizing beliefs' that Turner highlights. In a parallel way, that the umpire Declares a pitch to be a 'strike' complements (is not in competition with) the umpire's Assertion that the pitch is a strike; the umpire's Declaration and its collective acceptance creates a normative component, but only because he and the players see Asserted strikes as normatively significant, given the rules of the game.

26 Anthonie Meijers ('Collective Speech Acts', in Tsohatzidis, *Intentional Acts and Institutional Facts*, pp. 93–110) makes two points relevant to my thesis. First, he argues that collective Declarations are constitutive of institutional reality; this is the key development to his account that Searle makes in *Making the Social World*. Second, Meijers argues that collective acceptance of a belief either is reducible to all the individuals of the group believing it, or is the group's pragmatic acceptance of the belief as a premise of practical reasoning without necessarily all the members actually believing it. This distinction between acceptance and belief allows us to see more clearly how a dissenter might accept the Declarative constitutive of an institution while disapproving of it, and while perhaps even rejecting the truth of some Assertive content the Declarative might build upon.

27 Searle, *Making the Social World*, p. 130.

28 Searle, *The Construction of Social Reality*, p. 96.

29 As Frankfort put it, 'Any attempt to describe the Egyptian state irrespective of the doctrine of the Pharaoh's divinity would be fatuous' (*Ancient*

Egyptian Religion, p. 31). The doctrine is false; this statement describing its place in constituting ancient Egyptian sociopolitical order is true.

30 John R. Searle, 'Social Ontology: The Problem and Steps toward a Solution', in Tsohatzidis, *Intentional Acts and Institutional Facts*, pp. 11–28.

31 *Ibid*., pp. 26–7.

32 Searle, *Making the Social World*, p. 181.

33 Social ontology and ethics are related in that (1) some institutions, via Status Function Assertive-Declaratives, are built upon and partly defined by ethical beliefs, and in that (2) because ethics is supposed to articulate the norms that govern human action generally and ultimately, institutions and institutional actions should be judgeable by ethical norms (honesty, justice, love, e.g.). But this does not mean that in doing social ontology we really have to be, or should be, doing social ethics. Searle complains that too often philosophers interested in social institutions run toward their favorite large scale ethical topic, asking questions like 'What is justice?' or 'What is a just institution?' without first getting the basic ontology straight (Faigenbaum, *Conversations*, p. 151). My explication of Assertive-Declarative justifications helps us analyse (1), the first way social ontology and ethics are related, and helps us understand how Searle's account can connect up with other philosophical domains, including ethics but also, e.g., traditional sociopolitical philosophy and the philosophy of religion.

34 I do not mean to imply that Status Function-Assertive Declarative beliefs are the only way ethical normativity can appear in institutions. Zaibert and Smith argue, for instance, that certain ethical norms are built in to all actions, including institutional actions, because they follow directly from the structure of action intentions ('The Varieties of Normativity').

35 Zaibert and Smith, 'The Varieties of Normativity', p. 157.

36 *Ibid*., p. 166.

37 *Ibid*., pp. 157, 166, 161.

38 This is parallel to the classic distinction between perfect and imperfect obligations. It is parallel also to the distinction made by Thomas Aquinas between just human laws that follow deductively from the natural law and just human laws that, though they truly apply the natural law, require *determinatio* in order to apply natural law to a particular situation. For example, murder is wrong in itself and governments have the responsibility to punish murderers, but it requires creative decisions to determine what counts as a murder (e.g. if the victim of an attack dies of his injuries very long after the attack) and how we shall punish murderers. See *Summa Theologiae* I–II, Q. 95, a. 2.

39 Václav Havel, 'The Power of the Powerless', *Open Letters: Selected Writings, 1965–1990*, ed. Paul Wilson (New York: Vintage Books, 1991), pp. 136, 147.

40 'Individuals need not believe all these mystifications, but they must behave as though they did ...' (Havel, 'The Power of the Powerless', p. 136). The participants do not need to approve of the system or buy any belief propagated by the system to make it work. According to Havel, they need only 'to have accepted their life with it and in it. For by this very fact, individuals confirm the system, fulfill the system, *are* the system' (Havel, 'The Power of the Powerless', p. 136).

41 By calling the corrupt late-totalitarian regime a 'game', Havel meant that it operated based only on collective behavioral acceptance of socially created rules – rules that were not grounded in, and people knew they were not

grounded in, an ethical order or truth transcending the ways things happen to be done there and then.

42 Havel, 'The Power of the Powerless', p. 134.
43 *Ibid*., p. 133.
44 *Ibid*., p. 147.
45 *Ibid*., p. 147.
46 *Ibid*., p. 179.
47 Sokolowski, *Phenomenology of the Human Person*, p. 96. Havel's analysis of life inside the ideology-veiled game clearly appeals to the aspect of the human person that Sokolowski terms *veracity*:

> living the truth is thus woven directly into the texture of living a lie. It is the repressed alternative, the authentic aim to which living a lie is an inauthentic response. Only against this background does living a lie make any sense; it exists *because* of that background. In its excusatory, chimerical rootedness in the human order, it is a response to nothing other than the human predisposition to truth. Under the orderly surface of the life of lies, therefore, there slumbers the hidden sphere of life in its real aims, of its hidden openness to truth. (Havel, 'The Power of the Powerless', p. 148)

48 Plato, *Crito* 47d, in *Four Texts on Socrates*, trans. and ed. Thomas G. West and Grace Starry West (Ithaca, NY: Cornell University Press, 1984), p. 104.
49 Generally the players of a game enter it willingly, implying acceptance of the rules. Thus, Zaibert and Smith, in 'The Varieties of Normativity', point to unchosen institutional obligations as posing a special problem for Searle's account, and this is one reason they conclude that Searle cannot distinguish properly between sociopolitical institutions and games. In his defence, we should note that for Searle the obligation to obey government does not need to be self-imposed (e.g. in a promise) by the subject of the obligation; rather, the subject merely needs to recognize the government's power as 'valid' (*Making the Social World*, p. 168). Still, Searle does not appeal to belief in intentionality-independent normativity to explain the acceptance of a valid government. Rather, he points to two other ways governments get people to accept their power, i.e. to play their game. First, he emphasizes that a government can function as 'the ultimate system of status function' only by maintaining 'a constant threat of physical force' (*Making the Social World*, p. 171). Second, he mentions the importance of (misleading) symbolism: 'Where the institution demands more of its participants than it can extract by force, where consent is essential, a great deal of pomp, ceremony, and razzmatazz is used in such a way as to suggest that something more is going on than simply acceptance of the formula X counts as Y in C' (*The Construction of Social Reality*, p. 118). Here Searle might have taken a step toward saying that some institutions are constituted by the belief that 'something more is going on', but does not. Instead, he implies that any such suggestion can at best provide the façade of something high. Though he recognizes that 'the question of legitimacy becomes crucial for governments in a way that it is not' for most other institutions (*Making the Social World*, p. 164), he does not recognize that legitimacy for some institutions might require justification, and that therefore justificatory beliefs might be partly constitutive of political institutions.
50 I consider my account, also, to be ethically neutral. Concluding her study extending Searlean social ontology, Åsa Andersson, in *Power and Social Ontology* (Malmö, Sweden: Bokbox Publications, 2007), wishes to make

sense of the critical *moral* evaluation of institutional deontic powers. She argues that moral facts are a species of social fact, i.e. that they are created by and dependent upon collective intentionality. Her concerns are similar to mine in that she wishes to relate moral intentionality and moral disagreement to a Searlean social ontology. Her position is unlike mine in two crucial respects. First, she argues for a metaethical position, whereas I am not. (My thesis is purely about the logical structure of certain institutions, that they are partly constituted by beliefs about intentionality-independent, normatively significant facts. My thesis is neither ethical nor metaethical in Andersson's sense – I am not arguing here that any purported moral claim is true or false, or that moral facts exist, or about how moral facts might exist.) Second, she is arguing about moral *facts*, that they are really a species of social fact, whereas I am arguing about a species of social fact, that they are partly constituted by Assertive beliefs, some of which may be moral *beliefs*. Thus, though she and I are concerned with different questions, we are working somewhat at cross-purposes: her position encloses moral intentionality within the socially created realm by incorporating their intentional objects, moral facts, as part of this realm; my position recognizes that some socially constitutive intentional states target normativity outside of this realm, extending the ways in which social reality can be intentionalistically open to intentionality-independent reality. See Andersson, *Power and Social Ontology*, pp. 157–78.

51 The claim that mind and mind's products are involved in reciprocal causality or influence can be put in Searle's terms of epistemic and ontological objectivity/subjectivity. An intentionality-relative (thus ontologically subjective) fact or formation is ontologically derivative of the intentional states creating it, but can be epistemically objective because it can have a reality independent of *other* intentional states, e.g. that this is a bathtub, a dollar bill, a king, though constructed by thought, can be looked upon as a ready-made fact by other thoughts. Further thought takes over thought's past product as a starting point, makes assertions about it, responds to it, builds upon it, etc.