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Back to Basics: Straw Men, Status Functions, and Human Rights

Gregory Lobo, Universidad de los Andes, Bogotá, Colombia

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“They won’t let me be a citizen, because then they have to give me rights and they won’t call me a refugee because then they have to give me aid,” said Mr. Saifullah. “I am not a citizen or a refugee. I am an illegal alien. I am nothing.”¹

While Mr. Saifullah, quite tragically, gets it, Professor Corlett, sadly, does not. This brief essay is an attempt to help Professor Corlett “get it,” to understand why status functions are important for understanding human rights. Along the way some basic misunderstandings regarding the substance and purpose of John Searle’s reflections on how his social ontology might shed light on discussions of human rights will be clarified. These misunderstandings are evident in Corlett (2016),² henceforth simply 2016, and were initially addressed in a scant seven pages by Lobo (2017),³ henceforth Lobo.⁴ In reaction to Lobo’s seven pages, Professor Corlett produced a 22 page response,⁵ henceforth 2017, rejecting Lobo’s clarifications and reaffirming his original conclusions as found in 2016.

In the first part of what follows, Corlett’s principal objection to Searle’s thinking will be re-presented. As in Lobo, it will be shown once more that the objection is unfounded, by comparing relevant textual citations from 2016 and 2017 with textual citations from Searle (2010)⁶ and Searle (2011).⁷ In the second part, the purpose of Searle’s intervention into the field of human rights thinking will be clarified. This will reveal that Corlett’s objections — even if they were not baseless — are in any event not germane.

Finally, what is claimed in Lobo to be Searle’s major contribution to human rights thinking, based on the concept of the status function, will be discussed. In 2017 Corlett mishandled (that is, treated without due care) Lobo’s representation (paraphrase) of what he, Lobo, understands to be Searle’s major contribution to the discussion.⁸ It is possible that it is this

¹ Mehreen Zahra-Malik, “Far From Myanmar Violence, Rohingya in Pakistan Are Seething,” *The New York Times*, Sep. 12, 2017, accessed Sep. 13, 2017 https://www.nytimes.com/2017/09/12/world/asia/rohingya-pakistan-myanmar-violence.html?emc=edit_th_20170913&nl=today'sheadlines&nliid=22512676. A version of this article appears in print on September 13, 2017, on Page A4 of the New York edition with the headline: Far From Myanmar’s Strife, Pakistan’s Rohingya Suffer.

² J Angelo Corlett, “Searle on Human Rights,” *Social Epistemology* 30, no. 4 (2016): 440-463.

³ Gregory J Lobo, “Reason, Morality and Recognition,” *Social Epistemology Review and Reply Collective* 6, no. 9 (2017): 22-28.

⁴ Fearing that the use of the first person, while often justified, nonetheless interrupts the dialectic of collaborative reasoning, as interlocutors instantiate a personal, private relationship with “their” arguments and interpretations, such that they become embodiments of the same and thus refractory to evidence that contradicts them/their position, the third person is employed consistently throughout this essay, in an attempt to avoid what in Colombia is called a dialogue of the deaf (*diálogo de sordos*).

⁵ J Angelo Corlett, “More on Searle on Human Rights,” *Social Epistemology Review and Reply Collective* 6, no. 10 (2017): 15-36.

⁶ John R Searle, *Making the Social World: The Structure of Human Civilization* (Oxford: Oxford University Press, 2010).

⁷ John R Searle, “Replies” *Analysis* 71, no. 4 (2011): 733-741.

⁸ Corlett’s mishandling of Lobo’s words is troubling on the face of it; it is even more so in light of Corlett’s insistence that “both critics and defenders of an author’s work owe it to themselves, the author, and others to *carefully quote* an author in constructing her position” (2017, 32 emphasis added).

error by Corlett that led to him dismissing said contribution in 2017 as entirely unoriginal. The discussion will clarify both the substance of Searle's actual contribution and its originality.

Errors and Corrections

Fundamentally, Corlett errs in his characterization of Searle's thinking on human rights. Among his initial errors is this: "Searle's conception of human rights is purely institutional, e.g. he believes that such rights are products only of social construction."⁹ Corlett's related but more principal concern would seem to be that Searle's thinking on human rights "is not completely justified"¹⁰ because Searle does not address the issue of what Corlett refers to as the "essential moral properties" of such rights. The best explication to found in Corlett of what this might mean is this: a human right "finds at least part of its grounding in morality."¹¹ It is appropriate to ask, what is meant by morality? "By 'morality,' it is meant that such rights have moral foundations in an objective sense."¹²

If the reader is less than satisfied with this tautology, so be it: Corlett offers nothing further. Of more concern, perhaps, is that based on Corlett (2016 and 2017) everything indicates that the guarantor of objectivity, and thus morality (and of the objectivity of objectivity and the morality of morality), would seem to be none other than the "tradition" or the "leading philosophers of human rights." This, of course, should not worry the reader in any way at all. It is important to point out that Corlett re-words this moral concern of his towards the conclusion of 2016, criticizing Searle's thinking, both in general and on human rights specifically, for lacking what he refers to as a "morally normative" component or element,¹³ for which a non-tautological explication is never offered.

Now, to support this characterization of Searle's thinking, Corlett quotes from Searle (2011), an article in which Searle is replying to some of the critics of his 2010 work. Having characterized Searle's conception of human rights as "purely institutional" and "social construction[ist]," and complained that Searle's thinking "does not even address" questions of morality in relation to human rights, Corlett seeks to give credence to this characterization by quoting Searle, thusly: "[o]n my [Searle is using the first person] account all rights are status functions and thus human creations. We do not discover human rights in nature as we discover human chromosomes. But if human rights are created by human beings, then what rationally compelling justification can we give for the creation of universal human rights?" (Searle 2011, pp. 139–140).¹⁴

Here it is relevant to ask, if Corlett is going to quote Searle asking what rationally compelling justification can be given for the creation of universal human rights, why does Corlett not let Searle answer? For Searle does answer the question Corlett quotes. But Corlett passes over Searle's answer, as if it does not exist.

⁹ Corlett, "Searle," 454.

¹⁰ Corlett, "Searle," 455. It shall go unremarked that "complete justification" would seem to be an impossible standard.

¹¹ Corlett, "Searle," 454.

¹² Corlett, "Searle," 454-455. More will be said about Corlett's use of the notion of objective below.

¹³ Corlett, "Searle," 461-462.

¹⁴ Corlett, "Searle," 454.

Instead of allowing Searle his answer (quoting it), Corlett immediately interjects a *non sequitur*: “In Searle’s terms, then, human rights are epistemically subjective rather than objective.”¹⁵ Now, this is a *non sequitur* insofar as it has nothing to do with the question Searle poses; however, it is anything but a *non sequitur* for Corlett’s purposes. For by interjecting so, Corlett is clearly seeking to hang Searle on what Corlett sees as the problematic inferences one can make when reading Searle’s question *in the absence of an answer*.

Corlett, it appears, seems to want the reader to imagine that Searle is posing a rhetorical question, out of exasperation, to which everyone already knows the answer. Through his presentation of Searle’s question, absent Searle’s answer, it looks like Corlett is suggesting that in asking the question, “what rationally compelling justification can we give for the creation of universal human rights?”, Searle is implying that we really can’t give a rationally compelling justification for them at all. This would mean that we are left only with institutions and social construction — or what Corlett sums up as the “epistemically subjective”.

*But Corlett is being dishonest.*¹⁶ For Searle does answer; his question is *not* born of exasperation, and it is certainly not rhetorical.¹⁷ And his answer, as much as his question — which is about *universal* human rights and their justification — shows that Searle seeks, in fact, to ground human rights in moral foundations, even as he continues to understand human rights, indeed all rights, as the result of human creativity.

The Meaning of the Question

Still, before turning to Searle’s answer, it is worth considering further the implications of Searle’s question, especially with respect to Corlett’s accusation that Searle’s thinking lacks considerations of the morally normative. Searle asks about legitimacy in the creation of universal human rights. But for a right to be universal it would have to be, *ipso facto*, normative, morally so, ethically so, and it would have to be so normative for everyone — for

¹⁵ Corlett, “Searle,” 454.

¹⁶ Though Lobo’s sincere attempt to help Corlett understand and correct the errors in his understanding of Searle have been received ungraciously by Corlett and, rather, met with snide but baseless insinuations (see 2017, 32), the temptation to fall into a mimetic replication of Corlett’s unprofessional response will here be resisted. The characterization of Corlett as dishonest, to be absolutely clear, is direct, and based on the evidence: that even though Lobo points out what Corlett has done in 2016, alerting him to his error, Corlett continues to ignore the evidence, and proceeds as if it didn’t exist and directly refute his position. He might have been understandably distracted the first time round, but the second time suggests something approaching dishonesty. Additionally, elsewhere in 2017 (see page 26), Corlett again acts in such a way as to justify the charge of dishonesty, as when he textually cites Lobo paraphrasing Searle, ignores Lobo’s textual citation of Searle, and then faults Lobo for not citing Searle directly.

¹⁷ At the risk of redundancy, the reader is again reminded that in 2017 Corlett points out that “both critics and defenders of an author’s work owe it to themselves, the author, and others to carefully quote an author in constructing her position” (2017, 32). It seems that Corlett exempts himself from this simple standard, actively transgressing it by engaging in selective quotation to serve his ends or by simply representing his own version of an author’s position without recourse to textual evidence. For example, Corlett argues, or implies (the difference is hugely important to Corlett) that someone (probably Searle, possibly Lobo) is “insist[ing] that only humans can have a right to life” (2017, 33). But no one, at least neither Searle nor Lobo, insists on such a thing.

it is *universal*. In other words, a universal human right is, by definition, always already morally normative, and Corlett's principal complaint against Searle's thinking, that it lacks consideration of the morally normative because it is purely institutional, collapses.

That being the case, it is still worth pondering the implications of Searle's answer to the question he poses. Recall that Searle is asking after a rationally compelling justification for the creation of universal human rights. He immediately responds: "I offer a justification, but if I am right it limits the scope of human rights."¹⁸ How could this be so; how could his thinking contemplate limits (which again, suggests normativity)? For on Corlett's reading, Searle's "purely institutional", "social construction[ist]" understanding of human rights amounts to a "madness" which does nothing less than pave the way to outrages like white supremacy and slave ownership.¹⁹ On Corlett's reading, Searle's thinking allows any old anybody to dream up any whimsy that strikes their fancy and call it a human right. In 2016 Corlett, as is being evidenced, understands Searle poorly and thus his reading is completely wrong (not only plausibly wrong but, to repeat, completely wrong); but in 2017, after Lobo, Corlett still manages to somehow remain refractory to evidence that annuls his thesis.

Here is, finally, how Searle answers the question he posed: "A right is legitimately created only if it can rationally be justified by a correct conception of human nature, a set of values about human beings, and can rationally impose an obligation on all human beings to respect it."²⁰ In insisting that the rights in question have to be rationally imposable on all, Searle is insisting on something that is equivalent to an insistence on moral normativity and universality. Corlett missed these words. One could argue that he *had to* miss them, for they incontrovertibly refute all elements of his thesis. Or it could be allowed, charitably, that in 2016 he missed these words due to the pressures of working to deadline, and the employment of the quite fallible strategy of selective reading, which has claimed many more and much greater heads than his.

What is perhaps quite unforgivable however, is Corlett's reaction when confronted by these words of Searle in Lobo. In 2017, having had the chance to contemplate both the existence of these words, and the damage they quite clearly do to his thesis, Corlett responds in the following manner: he concedes that this "is the closest published statement by Searle of which I [Corlett] am aware that *on the surface* appears to align his view of human rights with the conception of human rights as moral ones which I attribute to the contemporary human rights tradition."²¹ But his concern, the reader will recall, is that Searle is a pure institutionalist, a "mad"²² social constructionist, whose work "lacks an essentially morally normative component."²³ The quotation, one among many (see Lobo for more), confirms

¹⁸ Searle, "Replies," 741.

¹⁹ Corlett, "Searle," 456.

²⁰ Searle, "Replies," 741.

²¹ Corlett, "More," 28-29, emphasis added. It is important to point out that the issue is not really whether Searle's thinking can be aligned with any tradition. What is in question is whether Searle integrates what Corlett refers to as moral normativity into his thinking on human rights. Though Searle doesn't use that precise phrasing, the evidence is insurmountable: he clearly does.

²² Again, Corlett deploys the phrase "Searlean madness" in 2016 (456) to make the case that there is no distance between Searle's thinking and white supremacy. One wonders how much distance there is between this sort of aspersion and calumny.

²³ Corlett, "Searle," 458.

that Corlett's concerns are groundless. So now the less charitable conclusion must be drawn: Corlett is purposefully ignoring the evidence before his eyes.

How Do You Justify?

Look at his initial response: “on the surface,” he insists, superficially, this quotation seems to successfully indicate that Corlett has misjudged Searle. But only there, on the surface. “However, the statement does not quite succeed in doing so,”²⁴ Corlett continues, in an attempt to regain his footing. This is to be expected, for the reader will recall, Corlett's standard is “complete justification.”²⁵ According to such logic, not quite succeeding amounts to nothing less than unmitigated failure. But in what way is the statement not quite successful? How will Corlett justify his use of the mitigating locution, “on the surface”?

As follows: “according to the conception of human rights which I articulate but do not endorse in Corlett (2016) and herein, being rationally justified by a correct conception of human nature is not a jointly sufficient condition of a human right, though it might be relevant to the issue of human rights possession (i.e., of who qualifies in having a human right).”²⁶ This “justification” is left without further comment. Corlett seems to think it is meaningful. The reader should decide for herself, but it is here deemed — further commentary notwithstanding — twaddle.

From the ridiculous to the sublime: what Corlett does next in his attempt to annul the overwhelming evidence that he has, as they say, constructed a straw man, a straw Searle, against whom to aim his arrows, is nothing less than extraordinary. He extends his attempt to undercut the pertinence Searle's wholly unobjectionable observation that a “right is legitimately created only if it can rationally be justified by a correct conception of human nature,” by introducing into argument the following, equally unobjectionable, truism: “That something is rationally justified can be a subjective or relative matter.”²⁷ This is extraordinary — in this context — because Searle is careful to make this consideration central to his thinking.

In his discussion of human rights he very clearly says: “I can at least argue for my conception of what I think is valuable in human life.”²⁸ In other words, and in the same sense, he can certainly argue (as can Corlett) for what he thinks should be morally normative. But as Searle immediately observes: “such arguments, as is typical in ethics, are not demonstrative, in the sense that any rational [and, it might well be added, reasonable] person is bound to accept them on pain of irrationality [or unreasonableness].”²⁹ Searle concludes

²⁴ Corlett, “More,” 29.

²⁵ Corlett, “Searle,” 455.

²⁶ Corlett, “More,” 29.

²⁷ Corlett, “More,” 29.

²⁸ Searle, *Making*, 192.

²⁹ Searle, *Making*, 192. In footnote 18 on page 29 of 2017, Corlett makes a fuss about the difference between reasonable and rational, emphasizing his preference for the former. His argument is unconvincing and one can just as easily make the case for their interchangeability. A quick online search using Google reveals: rationality

this thought with an idea that should interest Corlett, for it speaks directly to the latter's concerns: "But from the fact that they [the arguments] have an element of epistemic subjectivity, it does not follow that they are arbitrary or beyond the scope of argument".³⁰

It would seem there is little more to be said on this topic, for anyone who understands, at least roughly, how language works, knows that it is possible to say equivalent things without using identical words. Thus it is no stretch whatsoever to conclude on the basis of what Searle says that he is arguing, explicitly, for moral considerations in the elaboration of human rights. He explicitly rejects the notion that they can be elaborated arbitrarily or without reference to moral foundations. This information and argument was presented in Lobo, but ignored in and by Corlett in 2017.

When Is the Universal Truly Necessary?

Sadly, however, this is not in fact the least of it. What is truly astonishing about Corlett's pointing up that subjectivity and rationality are an important concern — as indeed they are — is that, in neither 2016 nor 2017, is there found any clear (non-tautological) explication of what counts as "morally normative" — his central peeve — anyway; the closest Corlett comes to giving the expression some substance is when he refers to "what are moral rights above and beyond what societies say they are" in 2016,³¹ and in 2017, when he says that "human rights are [...] are non-institutionally moral or ethical, backed by valid moral or ethical principles or rules."³²

To repeat: in an attempt to cut at Searle, Corlett informs his reader (as if the reader were unaware): "That something is rationally justified can be a subjective or relative matter."³³ To be clear, Corlett is broadcasting the insight that what counts as rational and as justified (and by extension, surely, what is "true," "valid," "objective" and so on) is in fact subjective, relative — to one's point of view, no doubt. It is claimed here that this intervention is astonishing. Why? Not for its content, certainly, but because the subject of its enunciation, namely Corlett himself, has in both 2016 and 2017 used the following phrases as if they were not tainted with subjectivity or relativity *in the slightest*: "true morality,"³⁴ "valid moral claims,"³⁵ "valid moral rules,"³⁶ "a morally enlightened moral conscience,"³⁷ "objectively valid moral rules,"³⁸ "valid moral principles,"³⁹ notions like "objectively valid,"⁴⁰ "a proper

— the quality of being based on or in accordance with reason or logic. Corlett is quite clearly clutching at straw(s).

³⁰ Searle, *Making*, 192.

³¹ Corlett, "Searle," 455. One might ask, justly, in what way this formulation differs from Searle's insistence that human rights be formulated to rationally impose an obligation on all human beings to respect them.

³² Corlett, "More," 22.

³³ Corlett, "More," 29.

³⁴ Corlett, "Searle," 455. Corlett uses quotation marks around this phrase, though it is not clear why. For they most certainly are not scare quotes. His use of the term is non-ironic, thoroughly sincere.

³⁵ Corlett, "Searle," 456, 460.

³⁶ Corlett, "Searle," 457.

³⁷ Corlett, "Searle," 456, 457 twice, 459.

³⁸ Corlett, "Searle," 455, 457.

³⁹ Corlett, "Searle," 457.

⁴⁰ Corlett, "More," 20.

interpretation,”⁴¹ formulations like “[b]y ‘valid’ is meant objectively valid,”⁴² “valid moral or ethical principles,”⁴³ and this, while exhausting, is hardly an exhaustive list.

In not one single instance that can be found does Corlett allow that something like “true morality” might be a subjective or relative matter, that what counts as “a morally enlightened moral conscience” might be an unsettled question, within the scope of argument.⁴⁴ What is to be made of a statement like the following: “what makes a human right valid [...] is valid [?] moral/ethical principles or rules which confer [wait for it...] validity on a human rights claim or interest and thereby confer the right in question to a particular individual or group?”⁴⁵ It is too distressingly convoluted and tautological to be considered a valid⁴⁶ English sentence; but what is more bothersome in the present context is it begs the question (begged by all the other just cited formulations too): who decides what is valid, true, objective, normative, moral, proper and so on?⁴⁷

For Corlett there is a “true morality” that is not subjective, not relative; there are “valid moral claims” that are not subjective or relative matters; there is a “morally enlightened moral conscience” (yes, he uses the redundancy) and this is neither subjective nor relative. It is surprising that Corlett — that anyone engaged in the philosophical, and more pointedly, the social epistemological, if you will, enterprise — would so unselfconsciously, so unreflectively, so unironically, deploy such terms in an attempt to find fault with Searle’s — indeed, anyone’s — thinking. Does he not realize that such formulations are entirely of a piece with the discourses of radical religionists, Nazis, Stalinists, Maoists and so on?

They are not, however, part of Searle’s discourse. And in this regard it is to be noted, as a sort of coda to this section, that in the piece most selectively cited by Corlett⁴⁸ in 2016, and which has provided much food for thought above, Searle has the following to say about validity and the morally normative. First, validity: “a valid justification does not necessarily produce agreement.”⁴⁹ This observation does not seem to register with Corlett (his truism cited above notwithstanding). Searle goes on:

As a philosopher I would have a much easier life if people agreed with all my valid arguments. (No doubt my adversaries have the same feeling about my inability to appreciate their ‘valid’ arguments.) The point for the present

⁴¹ Corlett, “More,” 23.

⁴² Wait, what? Corlett, “More,” 20.

⁴³ Corlett, “More,” 22.

⁴⁴ It is noted, in passing, that Searle would recognize such concepts to be subject to argument. See below.

⁴⁵ Corlett, “More,” 25.

⁴⁶ Stipulated here.

⁴⁷ To this most basic criticism can be added that Corlett, in repeatedly drawing on the formulation that human rights are “discovered by human reason” (2016, 455; 2017, 25, 34), seems to think that rights are on the same level as black holes and quarks (truly “discovered” by human reason before being empirically observed), and that, moreover, reason itself is an uncorrupt tool, that its ethical discoveries are somehow beyond subjectivity and relativity.

⁴⁸ That is to say, cited selectively, for Corlett’s rhetorical convenience, rather than for the dialectical process.

⁴⁹ Searle, “Replies,” 741.

discussion is that one can legitimately argue for the validity and universality of certain human rights even though one knows that the conception of human dignity that one is arguing from is not universally shared and that one's arguments will not convince people who wish to deny humans their rights.⁵⁰

Who would dispute this? On the face of the evidence (2016 and 2017) Corlett would: "the moral conception of a human rights holds that such rights do not change."⁵¹ In other words, Corlett thinks these things can be placed beyond argument. An audience of totalitarians would likely be the first to agree.

Regarding human rights more specifically, Searle says: "there ought to be a general account of them and how they relate to our humanity."⁵² This is essentially an argument in favor of something like moral normativity; he then adds, "I try to provide the beginning of such an account."⁵³ Indeed. He then offers up a critique of merely "utilitarian" justifications of human rights, which again evinces his understanding of the need for some sort of normative grounding for them. It is deeply troubling that Corlett cannot intellectually grasp this. Finally, Searle reiterates his point, already present in 2010 but ignored for some reason by Corlett in 2016 and 2017, namely, that "a right can continue to exist even when it is not recognized" and that one therefore does "not lose" one's "rights in a situation where they are generally violated."⁵⁴ This provides a segue into the next section.

Searle's Purpose and Contribution

In 2017, towards the end of his 22 pages responding to Lobo's seven, Corlett admits that he doesn't really know what Searle is up to in Searle (2010): "this discussion of Searle's view of human rights raises the question of precisely which questions he is attempting to answer."⁵⁵ Corlett offers up a couple of possibilities; but both are wrong. The overall goal for the chapter that so vexes Corlett is not to explore the field or tradition of human rights but to see what light, if any, Searle's social ontology sheds on the ontology of human rights.⁵⁶ Towards the end of his chapter, Searle, having partially (but hardly completely) explored the debate on human rights, summarizes his basic position, using italics:

*the justification for human rights cannot be ethically neutral. It involves more than just a biological conception of what sorts of beings we are; it also involves a conception of what is valuable, actually or potentially, about our very existence.*⁵⁷

Though he does not speak of morality in this quotation, he mentions ethics and elaborates what he means: it concerns what is valuable about our existence, which is to say, what is

⁵⁰ Searle, "Replies," 741.

⁵¹ Which might well lead one to describe such rights as eternal, insofar as eternal can be taken to mean unchanging.

⁵² Searle, "Replies," 741.

⁵³ Searle, "Replies," 741.

⁵⁴ Searle, "Replies," 741.

⁵⁵ Corlett, "More," 33.

⁵⁶ Searle, *Making*, 175.

⁵⁷ Searle, *Making*, 190.

good, and best even. In other words, he insists on the need to formulate human rights by the light of reason (it is unclear how else such universal human rights might be formulated), with close attention paid to considerations grounded in the non-institutional, i.e. the biological, and extending into the ethical and moral. This quotation, in and of itself, should be enough to short-circuit Corlett's argument, and knock the stuffing, the straw, out of the Searlean stand-in he constructs; in the face of it he could gracefully admit that he had misread Searle (for misreading is something to which even the best of us succumb), perhaps express gratitude for the clarification, and all involved could move on. Or not.

And so, in 2016 *and* 2017 these words from Searle (2010), cited in Lobo, which constitute clear evidence that Searle acknowledges the need to ground human rights in moral norms, are simply ignored or disputed as not saying *exactly* what Corlett wants (remember: he will accept nothing less than complete justification). It remains to be seen whether they will be ignored again, so it is worth emphasizing what Searle is doing here: Searle is doing exactly what Corlett says he is not doing. That Searle doesn't use Corlett's favorite phrases is what seems to make it impossible for Corlett to see this. With the benefit of this second clarification, perhaps he will.

But Searle is also doing something else. While not concerned at all to align his thinking with Corlett's hallowed tradition, he is anxious to explore and resolve a paradox at the heart of thinking about human rights: on the one hand it is said human rights did not exist before the Enlightenment, but on the other hand, it is also said that human rights have always existed, but were only recognized with the Enlightenment, and indeed, can exist even when not recognized.⁵⁸

Searle's way of resolving the paradox is what was argued in Lobo to be his big contribution to the debate, which Corlett in 2017 dismisses as unoriginal.

So Who Is Right?

First, it is important to see how Corlett understands Lobo's paraphrasing of Searle's contribution. Corlett, conveniently (in more than one sense of the word) cites Lobo summarizing Searle: "Searle '... makes a contribution to the philosophy of human rights whose importance, I think, is hard to exaggerate, when he points out that what is crucial is that their potential bearers be recognized as a fully-fledged member of the human community and thus as entitled to the rights that accrue, automatically and inalienably, to each and every member of said community' (Lobo 2017, 28)."⁵⁹ This quotation is truncated, which would not be a problem⁶⁰ were the truncation signaled with an ellipsis; but it is not

⁵⁸ Searle, *Making*, 177.

⁵⁹ Corlett, "More," 17.

⁶⁰ In point of fact it would be a problem, for as cited by Corlett, it is ungrammatical. Corlett appears not to notice.

(and the initial ellipsis is not being questioned here).⁶¹ Here is what Lobo wrote, with the missing words italicized:

...makes a contribution to the philosophy of human rights whose importance, I think, is hard to exaggerate, when he points out that what is crucial is that their potential bearers be recognized *as actual bearers, that each and every member of the human species must be recognized as a fully-fledged member of the human community and thus as entitled to the rights that accrue, automatically and inalienably, to each and every member of said community.*⁶²

Does it make a difference? Insofar as Corlett's version of Lobo evinces once more what might at this point be justly characterized as a *tendency* to selectively read, to conveniently misread, it probably makes a difference. The difference it might make is compounded by the fact that Corlett repeats the misquotation again on his next page, and it is on the basis of this misquotation that he dismisses as unoriginal what Lobo has said is an important contribution to the human rights discussion, as "either assumed, asserted, or argued by many doing rights theory during the past few decades."⁶³ Tellingly, he does not cite any textual support for this assertion. He does however again quote the substance of the misquotation (this is the third time), as part of his attempt to denude Searle's contribution of value.

It is perhaps inevitable that, having misquoted Lobo, Corlett should misunderstand him, and believe him to be saying something already and widely said. What is it that Corlett thinks Lobo is saying, that has already been said? It is this: "one must be a human being in order to be in a position to make valid rights claims."⁶⁴ Or, the "fact" that humans are "members of the human community", Corlett continues, "places them in a position to possess human rights."⁶⁵ Now if this were what Lobo is saying, and if this were what Searle is saying (for Lobo is taken to be explicating Searle here), then Corlett would be right, and Lobo, at the very least, would probably be embarrassed, but grateful for the lesson. But again, this formulation of Corlett is based on a misreading, evidenced by Corlett's reliance on an unreliable, and ungrammatical misquotation he produced.

What the Meaning of the Argument Was in the First Place

So what is Lobo actually saying? First, a return to the accurate quote, again adding emphasis where appropriate: with regard to human rights "what is crucial is that their *potential* bearers be recognized as *actual* bearers." To make sense of this (these are the final lines of Lobo; the idea has been explicated previously in that text), one has to understand the socio-ontological difference between potential and actual bearers, and it is here that Searle's work, whatever faults it may well and otherwise manifest, is so important.

⁶¹ At the risk of even more redundancy: In 2017 Corlett insists that "both critics and defenders of an author's work owe it to themselves, the author, and others *to carefully quote* an author in constructing her position" (2017, 32, emphasis added).

⁶² Lobo, "Reason," 28.

⁶³ Corlett, "More," 18.

⁶⁴ Corlett, "More," 18.

⁶⁵ Corlett, "More," 18.

For Searle's work (specifically his discussion of status functions) allows us to understand that being human is not an ontological condition but a socio-ontological condition. This is a subtle point.⁶⁶ But it is profound.⁶⁷ One might say that there is the species, *homo sapiens*, (this is in a sense an assertion about ontological reality) members of which are *potential* bearers of human rights. But at the level of the symbolic, at the level of social ontology, members of the species *homo sapiens* are only often, but not always, regarded as humans and thus — lately at least — as possessors of human rights. Thus, potential bearers of human rights, that is members of the species *homo sapiens*, have to be recognized as humans (members of the human community) if they are to effectively have their human rights. If Corlett does not understand this, it is simply because he does not understand how status functions work, which is the subject for another occasion.

The second part of the text mishandled by Corlett is this, emphasizing with italics where necessary: “each and every member of the *human species* [i.e. every individual *homo sapiens*] must be recognized as a fully-fledged member of the *human community* and thus as entitled to” human rights. Note what is *not* being said here. It is not being said that “one must be a human being in order to be in a position to make valid rights claims”; nor is it being said that “members of the community of humans [...] possess human rights.” These are both by now trite observations which, and Corlett is surely correct here, have long been part of the human rights tradition.

What is being said, based on Searlean social ontology, is that one must be *recognized* as a human being in order to make valid rights claims, that one must be *seen* as a member of the human community to (effectively) possess human rights, or to not have one's human rights violated. What is the difference? The difference is that being a *homo sapiens* does not mean you are *seen* as, *recognized* as, a human being, a member of the community, and it is in this sense that a *homo sapiens*/human being can be said to both possess and be denied their human rights. Corlett's whole discourse in 2016 and 2017 is predicated on the (mistaken) assumption that being human is socio-ontologically unproblematic and that the issue is the social existence and recognition of rights; but in fact it is about where and when *homo sapiens* are recognized and not recognized *qua* humans.

Corlett, and likely the tradition he invokes (if indeed he invokes its positions accurately, which at this point, it is not uncharitable to imagine, we have reason to doubt), may well say “No! Humans are humans, and as such are possessors of human rights!” Well, he and his vaunted tradition should go say it to Mr. Saifullah.

The Voice of a Lost Man

Mr. Saifullah? The reader is referred to the present essay's epigraph. Mr. Saifullah, according to the story in the *New York Times*, is a member of the Rohingya refugee community living in Pakistan for the last four decades, in conditions that the paper describes as “distressingly

⁶⁶ Hence, possibly, Corlett's difficulty with it?

⁶⁷ See previous note.

impoverished even by Karachi's standards." He and the community to which he belongs are actively being denied their basic rights.

But how can this be so?, Corlett must ask — for surely Mr. Saifullah is human; clearly he belongs to the human community. Such a "fact", Corlett would say, means he possesses rights, and he can claim them. Corlett would invoke the morally normative elements of the rights Mr. Saifullah possesses as a member of the human community and insist on the application of the normativity in question. And surely, just like that, Mr. Saifullah's humanity would be recognized by the relevant parties and his rights, never lost, just violated, would be made effective.

If only it were so easy...

But Mr. Saifullah, unlike Corlett, gets it. He understands (that is to say, his words evidence at least an implicit understanding) that being a *homo sapiens* does not in fact make you a member of the human community, for he understands that the human community is not ontological in any straightforward way; rather, it is socially and symbolically ontological.⁶⁸ He understands that it is not what one *is*, but how one is *seen*, for how one is seen is what determines whether one will be afforded the considerations rights supposedly guarantee one.

Look at Mr. Saifullah's words: "They won't let me be a citizen, because then they have to give me rights and they won't call me a refugee because then they have to give me aid". And then: "I am not a citizen or a refugee. I am an illegal alien. I am nothing." He understands that they — they, those who are not part of any hallowed tradition, but whose thinking on the matter is nonetheless decisive in a way Corlett, safely ensconced in the beautiful University of San Diego, doesn't seem to even want to comprehend — don't want to see him as a citizen or grant him citizenship, because then his rights as a human would have to be honored.

But nor will they call him a refugee, because in today's world, refugees have rights to aid that have to be honored. But Mr. Saifullah is not done. For he knows that the Pakistani functionaries who are not honoring his rights cannot simply ignore him as if he were not there. He is not invisible; he exists.⁶⁹ But as what? And so they assign him a status function, though it is not the status function of human: in effect they are saying, this *homo sapiens* is not (at least not first and foremost) a human; he is, rather, an *illegal alien*.

As such it is not so much that his rights as a human are violated — for he is not seen as a human, at least not in the important sense; it is that *qua* this sort of social object — i.e. an *other* beyond the protections of the law — his "rights" need not be so much be ignored as actively violated. For how else would one treat an illegal alien?⁷⁰ In being counted as an illegal alien, he is able to be counted as nothing.

⁶⁸ As any high schooler who learned the Greek roots of the word barbarian implicitly understands too.

⁶⁹ One might put it this way: his ontology is not in question (but nor is it decisive). What is in question, and what will be decisive, is his social ontology.

⁷⁰ This question, should it not be clear, is posed rhetorically.

There is little left to say, except for the fact that Searle's contribution sheds light on the rise in animal rights activism and indeed, on cases where people treat animals better than they treat *homo sapiens*. The former somehow acquire the status of human (understood in *this* case as the bearer of "rights" to life and comfort and to not be killed for food, etc.) and receive a level of care that millions of *homo sapiens* do not, these latter being assigned the status not of humans but of "the poor" or "the criminal" or "illegal aliens" or what have you. This point was made in Lobo.⁷¹

Conclusion: isn't it (really) ironic?

Professor Corlett, to conclude, ends with stupendous irony, only adding substance to and validating Searle's contribution, when he argues, in an attempt to score an inconsequential point against Searle (and Lobo), that there "are humans [what he means to say, though he doesn't know it, is *homo sapiens*.] both throughout history and today who have neither a moral [...] right to life nor to freedom of expression, namely, those who deserve capital punishment based on their" crimes.⁷²

Here Corlett is evidencing his subjective, relative perspective. For in Colombia, for example, such *homo sapiens* do not exist (at least not today): the Colombian constitution explicitly forbids not only capital punishment but also life imprisonment, no matter what the crime. But he is also evidencing an implicit endorsement of the Searlean perspective. For, of course, in contexts where such respect for what are still considered members of the human community in Colombia is absent, such *homo sapiens* are indeed, as he says, displaced from said community, and thus stripped of the rights that are otherwise a "simple" consequence of being (declared) human.

How? *By declaring them to be something else.* Which is to say that they are, through an institutional process, assigned a status function which, given the particular institutional arrangement and its foundational moral norms, supersedes the status function of human: they become now the condemned, convicts, guilty of capital crimes or indeed crimes against humanity, all status functions which permit and, in the corresponding situation, possibly demand that the organism to which such status function is assigned be put to death. Hopefully Professor Corlett will take some time to consider the consequences of this latent corroboration of Lobo's presentation of Searle before dashing off another excessively long response. Or perhaps he will take the higher road, and simply leave things as they now stand.

Contact details: globo@uniandes.edu.co

⁷¹ As further evidence of Corlett's problematic practice, he usurps Lobo's use of the phenomena of animal rights to make what seems to be a similar point, but without attribution. But typically, he gets it wrong because he misses the point. Someone who, in his own words, "painstakingly summarize[d]" Searle's social ontology clearly doesn't understand Searle's main contribution to the field, status functions, and thus misses the point that *social* ontology is not about what *is*, it is about what can claim to be and what is recognized as being. People treat animals as if they were human, sometimes as if they were more than human. Often, people do not treat humans (*homo sapiens*) as human.

⁷² Corlett, "More," 2017.

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