

Silence, Speech, and Responsibility

by

Ishani Maitra

A.B. Philosophy
Harvard University, 1995

SUBMITTED TO THE DEPARTMENT OF LINGUISTICS AND PHILOSOPHY
IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF

PH.D. IN PHILOSOPHY
AT THE
MASSACHUSETTS INSTITUTE OF TECHNOLOGY

SEPTEMBER 2002

© 2002 Ishani Maitra. All rights reserved.

The author hereby grants to MIT permission to reproduce
and to distribute publicly paper and electronic
copies of this thesis document in whole or in part.

Signature of Author:

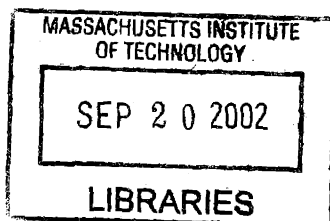
Department of Linguistics and Philosophy
September 6, 2002

Certified by:

Sally Haslanger
Associate Professor of Philosophy
Thesis Supervisor

Accepted by:

Vann McGee
Professor of Philosophy
Chair, Committee on Graduate Students



ARCHIVES

Silence, Speech, and Responsibility

by

Ishani Maitra

Submitted to the Department of Linguistics and Philosophy
on September 6, 2002 in Partial Fulfillment of the
Requirements for the Ph.D. Degree in
Philosophy

ABSTRACT

Pornography deserves special protections, it is often said, because it qualifies as speech; therefore, no matter what we think of it, we must afford it the protections that we extend to most speech, but don't extend to other actions. In response, it has been argued that the case is not so simple: one of the harms of pornography, it is claimed, is that it *silences* women's speech, thereby preventing women from deriving from speech the very benefits that warrant the special protections in the first place.

This dissertation offers a way of making sense of the view that pornography silences women. In Chapter 1, I develop an account of silencing which, unlike other accounts of the same phenomenon, helps make clear why a speaker who is silenced is thereby deprived of the benefits that led us to place a special value on speech. In Chapter 2, I respond to an objection that purports to show that, even if women *are* silenced, pornography cannot be responsible: in fact, according to this objection, the responsibility for any instance of silencing cannot lie with any party other than the speaker and the audience involved. I show that this objection relies on an overly simplistic picture of what audiences can reasonably be required to do in a speech situation; I also offer an alternate picture, which leaves open the possibility that a speaker may be silenced in a context in which both she and her audience behave competently. In Chapter 3, I consider a view about the way in which pornography contributes to the silencing – and more generally, to the subordination – of women. I argue that this view fails because it is too individualistic: it ignores how the social and political context in which the pornography is consumed helps determine whether it subordinates. I then make some suggestions about what a more satisfactory view would be.

Though pornography is the principal case study throughout this dissertation, much of what I say generalizes to other forms of representation that set limits on what speakers are able to convey. The main aim of my discussion is to contribute to the philosophical and feminist understanding of communication, by showing how an individual's social role can constrain her possibilities as a speaker.

Thesis Supervisor: Sally Haslanger
Title: Associate Professor of Philosophy

For my parents,
Ashok and Indrani Maitra

Silence, Speech, and Responsibility

TABLE OF CONTENTS

Acknowledgements.....	5
Chapter 1: Silencing Speech.....	7
Chapter 2: Who's Responsible for Understanding?.....	40
Chapter 3: The Speech Act Model of Pornography.....	62

ACKNOWLEDGEMENTS

First and foremost, I would like to thank Sally Haslanger, for asking me what I wanted to do philosophically, showing me that it was viable – and necessary – and giving me the intellectual and personal support that I needed to make this first stab. Throughout my graduate student experience, I have had the good fortune of having the support and example of a number of wonderful philosophical women: even among these, Sally is the standard-bearer for what a philosopher and an advisor should be.

I am also greatly indebted to the other members of my dissertation committee, Michael Glanzberg and Robert Stalnaker. At every point during the writing of this dissertation, Michael offered a sympathetic ear to my ideas, no matter how small or unformed. Every incarnation of this work benefited from my being able to bounce ideas off him. And Bob continues to inspire me with the scope of his philosophical vision. I would also like to express my admiration for Judith Jarvis Thomson, for her philosophical presence and personal style.

Though much of this dissertation is critical of Rae Langton's views, I hope that it is obvious that it was also fundamentally inspired by her scholarship. She, like Sally, helped me see that this kind of philosophy is possible. I look forward to continuing to read and respond to her work for years to come.

I am certain that I – like many other members of the M.I.T. Philosophy department – would have had a significantly more difficult graduate career without the continuing support of Jennifer Purdy, the department graduate administrator. Jen's efficiency, thoroughgoing knowledge of all aspects of M.I.T. bureaucracy, and unfailing cheerfulness were a constant help during my time here.

Nearly all of my dissertation was written within the confines of Panini Bakery. I want to thank the behind-the-counter staff there for the endless refills, the words of encouragement, and the Tibetan propaganda. But most importantly, I am grateful to Panini for introducing me to Mark A. Topinka, whose love, encouragement, and unwavering faith in me – even when it was undeserved – were essential to finishing my dissertation.

I can't imagine how different my graduate school experience would have been without the friendship and intellectual community provided by Michael Gordin, Elizabeth Lee, and Matthew Jones. Michael inspires me constantly with his sense of humor, and willingness to argue about anything, except in public places. Liz improved my life immeasurably by sharing with me her cats, her family, her fabulous cooking, and her complete disregard for nutritional value. And I hardly know where to begin to describe my appreciation for my eleven years (and counting!) of friendship with Matt, except to say that I shall always be grateful that neither of us is capable of producing \$2 for ice cream.

My fledgling philosophical thoughts have benefited greatly from the rigorous vetting afforded them by Cathy Wearing, over innumerable cups of tea; also, without Cathy's tutelage, I would never have learned that even philosophers can never have too much gear. And I especially want to express my love and gratitude for Ásta Svéinsdóttir, who has helped me be a better

philosopher and a more courageous person, and who has taught me the superior value of all things Icelandic.

Finally, I want to thank my parents for their support and patience through this process. My mother demonstrated to me that it is possible to surmount any number of obstacles to finish one's dissertation, including, in her case, a troublesome adolescent daughter; my father imbued me with intellectual curiosity and political awareness. When I invited them to attend my college graduation, they responded, "We'll talk when you get a Ph.D." I look forward to joining the conversation.

Chapter 1

Silencing Speech

INTRODUCTION

According to a common defense of pornographic speech, pornographers' right to speak is straightforwardly protected by the First Amendment guarantee of free speech; any attempt to regulate such speech constitutes a violation of that guarantee.¹ In a series of recent papers, Jennifer Hornsby and Rae Langton have argued that the common defense radically underestimates the complexity of the issue.² What this defense ignores, according to their reply, is that pornographic speech silences women, thereby violating *their* right to speak. This puts pornographers' right to speak in direct conflict with women's right to speak; consequently, any decision on whether to regulate pornographic speech must weigh the value of securing for one group the right to speak against the value of securing the same right for the other group. It may turn out, at the end of the day, that there is compelling reason to prefer the pornographers' right; but if Hornsby and Langton are right, this outcome can only be justified by a balancing of interests that is far more complicated and nuanced than anything the common defense of pornographic speech can recognize.

I shall dub the argument suggested by Hornsby and Langton *The Silencing Argument* to highlight the fact that it depends on a particular conception of silencing, albeit a rather unusual one. The argument makes use of the theory of speech acts described by J.L. Austin to spell out this conception of silencing.³ As we shall see, Hornsby and Langton argue that pornographic speech contributes to the inability of women to perform a particular category of speech acts, namely, those

¹ I will use the term *pornographer* to refer both to those who produce pornography and to those who distribute it.

² Rae Langton, "Speech Acts and Unspeakable Acts," *Philosophy and Public Affairs* 22 (1993): 293-330; Jennifer Hornsby, "Illocution and Its Significance," in *Foundations of Speech Act Theory: Philosophical and Linguistic Perspectives*, edited by Savas L. Tsohatzidis (New York: Routledge, 1994): 187-207; Jennifer Hornsby, "Disempowered Speech," *Philosophical Topics* 23 (1995): 127-147; Jennifer Hornsby and Rae Langton, "Free Speech and Illocution," *Legal Theory* 4 (1998): 21-37; Rae Langton and Caroline West, "Scorekeeping in a Pornographic Language Game," *Australasian Journal of Philosophy* 77 (1999): 303-319.

³ J. L. Austin, *How to Do Things with Words*, 2nd ed., edited by J.O. Urmson and Marina Sbisa (Cambridge, MA: Harvard University Press, 1975).

that Austin labels *illocutionary acts*. Because they cannot perform these illocutionary acts, women are unable to do with their words what other speakers are able to do with theirs; this counts as silencing just as much as preventing them from uttering words altogether. Moreover, Hornsby and Langton also argue for a conception of the right to free speech according to which silencing in this sense – i.e., illocutionary disablement – constitutes a violation of that right.⁴ They then conclude that pornographic speech violates women’s right to speak by contributing to their illocutionary disablement.

I shall argue that this reliance on Austin’s account of illocutionary acts brings with it several problems. One problem is the concept of illocution itself: certain well-known difficulties with that concept become particularly pressing in the context of defending the Silencing Argument. There are other problems as well. Perhaps most importantly, no plausible conception of the right to free speech can suppose that it includes a right to perform any illocutionary act whatsoever; this point has been made by Daniel Jacobson.⁵ This gives rise to a second problem that the defender of the Silencing Argument has to face, namely, that of distinguishing those illocutionary acts that can plausibly be supposed to be protected by a right to free speech.

These and related problems have led critics to conclude that the Silencing Argument is indefensible; I shall argue that this conclusion is much too hasty. Closer examination of the central examples of silencing suggests that the illocutionary acts whose disablement constitutes silencing do share a special feature: they are *purely communicative*, in a sense not shared by all illocutionary acts. It is this feature of certain illocutionary acts that makes their disablement count as silencing, and that makes that silencing a contravention of the speaker’s ability to make herself heard. What we need, then, to clarify the conception of silencing at issue is an account of what it is for an act to be purely

⁴ See especially Hornsby and Langton, “Free Speech and Illocution,” for this argument.

⁵ Daniel Jacobson, “Freedom of Speech Acts? A Response to Langton,” *Philosophy and Public Affairs* 24 (1995): 64-79.

communicative in this sense, *not* an account of what it is for the act to be illocutionary in the Austinian sense. The theory of speaker's meaning due to H.P. Grice provides just such an account.⁶

It is not my intention to undertake in this chapter a wholesale defense of the Silencing Argument. My goal here is more modest. I want to explain and motivate a re-framing of the argument; I take this re-framing to be a necessary first step in any such defense. The conception of silencing at which I arrive is somewhat different from the one Hornsby and Langton had in mind. But I think that my conception is preferable, for at least two reasons. First, it helps explain why the instances of silencing they mention are ones in which it is women's right to *speak* that is at issue, as opposed to their right to perform actions of some other kind. Given that we tend to regard speech as in some ways more valuable – and therefore, more worthy of special protections – than other actions, this is a point of great import. Moreover, my conception makes clear that the silencing can happen in several different ways, and that, accordingly, pornographic speech can contribute to the silencing in several different ways. Examining the ways in which the silencing can take place will allow us to get some sense of the empirical commitments of the argument.

It is worth noting that, even if we ultimately reject the conception of the right to free speech preferred by Hornsby and Langton – and in particular, even if we reject that conception as a possible interpretation of the right guaranteed by the First Amendment – the Silencing Argument would still be of interest. Part of what this argument attempts to establish is that women's abilities to speak and be heard are impaired by pornographic speech; if this is right, then the Silencing Argument succeeds in pointing out a significant wrong being suffered by women. Whether this wrong is best regarded as an infringement of their right to speak is, to some extent, a further question. There are, it seems to me, many ways of redressing such wrongs: imposing legal sanctions on pornographers is one – but by no means the only – way. For a number of reasons, we may ultimately decide that the wrong is best redressed in some other way. Be that as it may, getting clear on the relevant notion of silencing has to be the first step towards understanding and

⁶ H. Paul Grice, "Meaning," in his *Studies in the Way of Words* (Cambridge, MA: Harvard University Press, 1989): 213-223.

eventually remedying the wrongs suffered by women *qua* speakers; this is precisely what this chapter tries to do. The main conclusions of this chapter do not require accession to any particular interpretation of the right to free speech; rather, my aim here is to clarify why it is speech – and in particular, women’s abilities to speak – that is at issue in the Silencing Argument.

The chapter proceeds as follows. In the next two sections, I present the Silencing Argument in more detail. In Section I, I sketch the theory of speech acts on which the argument relies; along the way, I note a difficulty for the Austinian framework that, derivatively, makes trouble for the Silencing Argument. In Section II, I briefly explain the conception of the right to free speech preferred by Hornsby and Langton; in this context, I also consider a second difficulty for the Silencing Argument, namely, the one raised by Daniel Jacobson. In Section III, I turn to Hornsby’s response to the first of the difficulties mentioned above: I argue that her account doesn’t work as a response to that problem, but does provide an answer to the problem raised by Jacobson. I also argue that this last conclusion provides some reason to think that the Austinian framework isn’t the best choice for framing the Silencing Argument. In light of this, I go on to show, in Section IV, that the Silencing Argument can be re-framed using the Gricean framework of speaker’s meaning. Finally, in Section V, I conclude by noting several advantages of adopting the Gricean framework with respect to clarifying the notion of silencing with which we are concerned.

I. THE SILENCING THESIS

The Silencing Argument proceeds in two steps. The initial step is to explain and defend what I shall call *The Silencing Thesis*:

Pornographic speech silences women.

As will become clear in what follows, there may be more than one interpretation of silencing which makes the Silencing Thesis true. However, for the purposes of the Silencing Argument, there is a further constraint on acceptable interpretations of silencing: we need a sense of silencing which, in addition to being a truth-maker for the Silencing Thesis, also allows us to proceed with the second

step of the argument. This second step consists in the defense of another claim, henceforth to be referred to as *The Free Speech Thesis*:

The silencing of women by pornographic speech constitutes an infringement of their right to freedom of speech.

What is needed for the Silencing Argument to work, then, is a sense of silencing according to which what is silenced is speech of the sort that is protected by – an acceptable interpretation of – the right to free speech.

A. *The Austinian Framework*

It is easy to see why Austin's theory of speech acts is attractive in this context. The central insight of this theory is that speech is action: words are used to *do* things, to perform acts.⁷ Among the things that words may be used to do, of course, is to say things with certain meanings; but Austin believed that philosophers tend to focus on saying at the expense of all the other acts that words can be used to perform, such as warning, marrying, promising, etc. And if this is right – if speech *is* action, if speaking is doing various things with one's words – then it seems reasonable to suppose that silence can be failing to do some of the things that one wants to do with one's words.

Austin distinguishes three sorts of acts that a speaker might perform with her words. Suppose that, as Ben is about to leave the house without a coat, Ann says, "It's cold outside." First, Ann has here uttered words which express a particular content: this is her *locutionary act*. The content expressed by any utterance is fixed by the conventional meanings of the words in the sentence uttered, plus the context of the utterance. Thus, in my example, the content expressed is that it is cold outside the building in which Ann and Ben are located at the time of the utterance. Next, *in* saying these words, Ann may succeed in *warning* Ben that it is cold outside: this is her *illocutionary act*.⁸ Illocutionary acts are ones which a speaker can perform, in the right sorts of

⁷ Following Hornsby, I will use *acts* to denote types of things that people do, and *actions* for particular doings. Thus the distinction between acts and actions is a type-token distinction. In performing any one action, a speaker may have performed any number of distinct acts. Hornsby, "Illocution and Its Significance," pp. 187-188.

⁸ Warning is, of course, not the most well-known of illocutionary acts; that distinction no doubt belongs to the illocutionary acts that are generally, or at least, often performed by means of conventionalized formulas, such as

contexts, just in virtue of uttering certain words: in those contexts, her utterance simply constitutes the act in question.⁹ Finally, *by* saying these words, Ann may cause Ben to do certain things: for instance, she may *persuade* him to put on a coat before he ventures out. This is her *perlocutionary* act.

Following Hornsby, we might say that illocutionary acts aim at “essentially linguistic” effects, whereas perlocutionary acts aim at extra-linguistic ones.¹⁰ For Ann’s utterance to succeed as a warning, the only response required from her audience is that he recognize it as a warning: that is, to use the Austinian term, the utterance has to secure *uptake*. Because that is all the response that is required from the audience, illocutionary acts may be considered aspects of linguistic communication. By contrast, the success of perlocutionary acts requires more from the audience than mere comprehension of the speaker’s intention: for Ann’s utterance to persuade Ben, he must – in addition to recognizing the utterance as a warning – also accept that it is, in some sense, unwise to go outside without a coat. In other words, he must also come to *believe* the warning, which is entirely unnecessary for the success of the illocutionary act.¹¹

Illocutionary acts generally have felicity conditions, i.e., conditions that must obtain in order for these acts to be performed successfully. For many illocutionary acts, the attendant felicity conditions are determined by social conventions: thus, to count as having performed the illocutionary act of marrying in saying “I do,” the speaker must be unmarried, standing before the appropriate authority, with an unmarried person of the other sex, in the presence of the appropriate witnesses, etc. But not all illocutionary acts have felicity conditions that are determined in this

promising, marrying, christening, etc. Nevertheless, I introduce the notion of illocution using warning because illocutionary acts like warning, which are rarely, if ever, performed by using conventionalized formulas, are more pertinent to the Silencing Argument than the others. We shall see why this is so in Section III.

⁹ Other examples of illocutionary acts include promising, marrying and christening—as mentioned above—as well as urging, telling, suggesting, and refusing. Thus, in saying “I will be there by 7 o’clock,” I make a promise: my utterance constitutes the illocutionary act. Similarly for the other illocutionary acts.

¹⁰ As a matter of fact, this way of drawing the distinction between illocutionary and perlocutionary acts doesn’t quite work, for reasons that will be discussed in Section III. Nevertheless, it is worth thinking about this proposal, for—as we shall see in Section III—it is no mere mistake on Hornsby’s part that she draws the distinction in this way.

¹¹ Hornsby, “Illocution and Its Significance,” pp. 189-195.

manner. The illocutionary act of warning, for example, requires only that there be certain beliefs, shared between the speaker and her audience, about which actions are advisable. Thus, for Ann's utterance to succeed as a warning, she and Ben must both believe that going out in the cold without a coat is inadvisable, or at least, that it is generally believed to be so. But unlike the marriage act – the felicity conditions of which are explicitly formulated in the marriage laws – there is no formal system of rules that sets the felicity conditions for the act of warning.

As we shall see shortly, the distinction between illocutionary and perlocutionary acts is crucial to the Silencing Argument as conceived by Hornsby and Langton; unfortunately, it is also notoriously difficult to clarify. Austin hypothesized that the differences between *by* and *in* locutions might provide one way of marking this distinction: illocutionary acts are those that we perform *in* uttering words, whereas perlocutionary acts are those we perform *by* uttering them. However, it seems clear that our intuitions about the differences between these locutions are not robust enough to do the necessary work. It will also not do to say – following another suggestion of Austin's – that illocutionary acts are distinguished by having felicity conditions that are conventionally determined; nor to say that illocutionary acts are the ones which require uptake for their successful performance. As suggested above, it is not clear in what sense illocutionary acts like warning can be said to have conventionally determined felicity conditions. Moreover, certain perlocutionary acts, such as persuasion, also require uptake.

We are, therefore, still in need of a criterion that will help make this distinction precise. There is one proposal that we have yet to fully explore, namely, Hornsby's proposal that illocutionary acts are "essentially linguistic," whereas perlocutionary acts aim at extra-linguistic effects. I shall return to the proposal shortly; for the moment, having at least sketched the Austinian framework, I want to continue with the account of the Silencing Argument.

B. Kinds of Silence

Corresponding to the threefold distinction between locutionary, illocutionary, and perlocutionary acts, Langton distinguishes three ways in which someone can be silenced: simple silence,

illocutionary disablement, and perlocutionary frustration. Where no words are uttered, there is simple silence. Where there is speech, but the illocutionary act intended by the speaker is not performed, perhaps because one of the relevant felicity conditions is not satisfied, there is illocutionary disablement. And finally, where there is speech, but the perlocutionary effect intended by the speaker is not realized, there is perlocutionary frustration.

The difference between perlocutionary frustration and illocutionary disablement is nicely illustrated by the following example of Langton's, which can be used to show how a woman might suffer from either sort of silencing in a context in which she is unable to refuse sex.

Example 1 (Refusal): A woman says "No" to a man, intending to refuse sex. The man hears her, and recognizes the locutionary act that she intends to perform; that is, he understands the conventional meaning of the word 'No', and recognizes that the woman is uttering a word with that meaning. Nevertheless, the woman's utterance does not do what she wants it to do; the man goes on to force sex on her.

Let us begin with perlocutionary frustration. The man might understand that the woman does not want to have sex with him, that she intends to *refuse* sex by saying "No," and just not be deterred from doing as he wishes by his recognition of her refusal. Or else he might have eroticized the refusal itself, so that his recognition of her intention to refuse actually spurs him on to rape her. In such cases, she seems to perform the illocutionary act of refusal, for she intends to refuse, and her audience recognizes this intention; therefore, there is uptake. However, her utterance doesn't have the consequences that she wants it to have: in particular, it fails to deter him from raping her. As a result, her perlocutionary act is frustrated.

The woman's utterance fails in a very different way if the man does not even recognize her intention to refuse sex. He might think that she doesn't really mean what she says, that she is being coy, that she is "playing hard to get." Moreover, he might understand her in this way because this is a sexual context, and he believes that this is how women behave in sexual contexts. If this is the explanation for his failure to stop, then there seems to be no uptake on his part of the woman's intention to refuse. Further, this is so partly because of his attitudes towards women in general: for him, women in sexual contexts do not satisfy the felicity conditions for the illocutionary act of refusal, for he thinks that they always desire sex in such contexts, but don't want to appear too

forward. Since there is no uptake, the woman's utterance doesn't constitute the act she intends it to be, namely, a refusal; her illocutionary act is thus disabled.

We have thus distinguished two senses in which the woman in Example 1 might be said to be silenced, even though she is able to utter words. But nothing has been said so far about what pornography might have to do with either sort of silencing. In the case of perlocutionary frustration, it is easy enough to see how pornography *might* be involved, though perhaps not so easy to show that pornography is in fact involved in that way. If, for instance, pornography teaches its consumers to eroticize refusal and sexual violence, then there is a straightforward causal connection between pornographic speech and perlocutionary frustration; that connection, however, has proven very difficult to establish empirically.

What about the connection between pornographic speech and illocutionary disablement? A similar causal story can be told. Pornographic speech produces in its consumers beliefs that prevent them from understanding that women might want to refuse their sexual overtures. Among the relevant beliefs might be those mentioned above, that is, that women are coy, that they don't mean what they say, and so on. On this view, then, pornography plays a *causal* role in the illocutionary disablement of women: it causes this illocutionary disablement, by producing beliefs that prevent women from securing uptake. The Silencing Argument is here committed to an empirical claim; a complete defense of the argument will therefore have to include an empirical investigation.¹²

II. THE FREE SPEECH THESIS

We have now distinguished a couple of different interpretations of the Silencing Thesis. Depending on whether the silencing in question is perlocutionary frustration or illocutionary disablement, we have *The Perlocutionary Silencing Thesis*:

¹² On the question of the connection between pornographic speech and illocutionary disablement, Hornsby and Langton in fact part company. The causal story described above is due to Hornsby; I present it rather than Langton's because it is the simpler of the two. The difference between the two stories is not relevant for the purposes of this chapter, though it is perhaps worth mentioning that Langton's story also commits the Silencing Argument to an empirical claim at this juncture, albeit a different one than Hornsby's.

Pornographic speech contributes to the perlocutionary frustration of women's speech acts.

or *The Illocutionary Silencing Thesis*:

Pornographic speech contributes to the illocutionary disablement of women's speech acts.

But let us now recall that, for the purposes of the Silencing Argument, we need a sense of silencing which makes the Free Speech Thesis true. That thesis makes the following claim:

The silencing of women by pornographic speech constitutes an infringement of their right to freedom of speech.

Thus, the question becomes: does either perlocutionary frustration or illocutionary disablement constitute an infringement of the right to free speech?

Of course, the best interpretation of the right to free speech is a matter of some debate; but at the very least, it seems clear that it should not be construed as the right to freedom from perlocutionary frustration. The right to free speech is supposed to ensure that one's ideas are not denied a hearing simply because they are unpopular; it is *not* supposed to ensure that those ideas be persuasive. If a right to perlocutionary success were guaranteed by the right to free speech, every speaker would have – among other things – the right to persuade her audience to believe whatever she wanted, do whatever she wanted; but that is surely not a right we would want to secure for speakers, even if we could. Therefore, if silencing is understood as perlocutionary frustration, the Free Speech Thesis is just false.

What about illocutionary disablement? Here the matter is more complicated, for while perlocutionary success involves the achievement of extra-linguistic effects, illocutionary success – at least in some cases – is nothing more than being understood by one's audience. Hornsby and Langton argue that if members of a particular group are systematically misunderstood, then their ideas do not get a hearing; then, even if permitted to utter words, they are deprived of the capacity that the right to free speech is supposed to protect. So if women are systematically unable to refuse sexual overtures because their intended audiences fail to understand their efforts to do so, it is small comfort to note that they are not prevented from uttering words; they are prevented from doing

one of the things that makes uttering words important in the first place. Given that we value free speech because it allows voices that are unattractive to the majority – or to the powerful – to be heard, shouldn't we want to make sure that women are able to get a hearing for what they want to say? Shouldn't that be part of what is protected by the right to free speech? And if it is, then it follows that the illocutionary disablement of women as in Example 1 constitutes an infringement of their right to freedom of speech, as required by the Free Speech Thesis.

Obviously, we are moving rather quickly over some very complex issues regarding free speech, which deserve more attention than I am able to devote to them here. But in light of what has been said, one point seems particularly in need of clarification: if the issue under consideration is whether the right to free speech includes a right to freedom of illocution, something has to be said about how comprehensive the latter right is supposed to be. Can we suppose that speakers should have the right to perform any illocutionary act whatsoever? Some who are unconvinced by the Silencing Argument have answered this question in the negative, and, moreover, have taken that answer to constitute sufficient reason to reject the argument altogether. In the remainder of this section, I will consider one such response to the Silencing Argument, due to Daniel Jacobson.

Jacobson's critique of the Silencing Argument is founded on the thought that Langton's use of the concept of illocutionary disablement has certain "misleading features." Of these, the most worrisome – for Jacobson – is that all of Langton's examples are such that any "right-thinking person" would find the instances of illocutionary disablement deplorable, and would want the situations remedied by securing illocutionary enablement for the speakers.¹³ Thus, for instance, it is clear that women should be able to refuse sex; further, it is also clear that black South Africans should always have been permitted to vote, and homosexual couples to marry.¹⁴ But this sequence

¹³ Jacobson, "Freedom of Speech Acts?" p. 75.

¹⁴ These are further examples mentioned by Langton of illocutionary acts of one group of speakers being disabled by the speech acts of another group. The pronouncements of legislators in South Africa under apartheid made it the case that the felicity conditions for the act of voting could not be satisfied by black South Africans. Certain speech acts performed by these legislators—perhaps the *yes* votes that enacted into law the proposition that only persons of certain races would be allowed to vote—constituted the felicity conditions of the act of voting, so that that act could not be performed by blacks. Similarly, the pronouncements of legislators in the U.S. have made it the case that the felicity

of examples obscures the fact there are just as many cases in which it does not seem morally problematic to deny certain speakers the right to perform certain illocutionary acts. Arguably, no wrong is done to convicted felons by preventing them from voting, nor to twelve-year-olds and would-be bigamists by precluding them from marrying.

From this, Jacobson concludes that there can be no comprehensive right to freedom of illocution: that is, there is nothing amiss, morally speaking, in denying certain speakers the right to perform certain illocutionary acts. So, he writes, “there is no tension in defending a woman’s right to refuse sex and denying a child the right to marry.”¹⁵ Further, the explanation for this lack of tension, according to Jacobson, is that freedom of illocution is not freedom of expression, and it is only the latter that is protected by the right to free speech. In other words, even granting that certain speakers should be enabled to perform certain illocutions, this is not because such illocutions are protected by the right to free speech. Therefore, on Jacobson’s view, the Free Speech Thesis must be rejected.

Jacobson’s first point seems right: there simply can’t be a comprehensive right to freedom of illocution, for the very reasons he offers. What is odd about Jacobson’s rhetoric is the implication that Langton could be supposed to have suggested that there is such a comprehensive right. In fact, *contra* Jacobson, it is not clear that all of Langton’s examples of illocutionary disablement are such as to demand remedy in the form of illocutionary enablement for the speakers. In particular, consider the following example. Langton notes that Muslim women, unlike Muslim men, cannot secure divorce by saying “Talaq, talaq, talaq”: the felicity conditions of the divorce act are such as to require that the speaker be male.¹⁶ However, it is not at all obvious that the best remedy in this case is to seek illocutionary enablement for Muslim women. Perhaps the better response would be to also illocutionarily disable Muslim men. Anyway, the point is open for debate.

conditions of the marriage act cannot be satisfied by homosexual couples. See Langton, “Speech Acts and Unspeakable Acts,” p. 317.

¹⁵ Jacobson, “Freedom of Speech Acts?” p. 76.

¹⁶ Langton, “Speech Acts and Unspeakable Acts,” p. 317.

Still, there is perhaps a more charitable way to interpret Jacobson: we might take him to be posing a challenge to a defender of the Silencing Argument. According to this interpretation, the upshot of Jacobson's first conclusion is that a defender of the argument must provide a criterion for distinguishing those illocutions she takes to be protected by the right to free speech from those that are not. To put the point a little differently, we need to know what it is about certain illocutions that marks them as the ones protected by a commitment to the value of free speech. If we agree that the silencing of women by pornographic speech is an infringement of their right to speak, but that the silencing of twelve-year-olds and would-be bigamists by the marriage laws not an analogous infringement of their right, we need an account of what makes the difference. Without such an account, we are in the dark about the scope of the Silencing Argument.

Unfortunately, Jacobson's further claim – to the effect that there is no comprehensive right to freedom of illocution *because* freedom of illocution is not freedom of expression – makes the charitable interpretation improbable. Given that there is no comprehensive right to free illocution, Jacobson seems to think that it follows that the First Amendment guarantee of free speech cannot extend to illocutionary acts at all. He thus simply ignores the possibility that the guarantee of free speech protects just some, but not all, illocutions, and that there might be a principled way of distinguishing the privileged ones. Therefore, if he does intend to issue a challenge to the defender of the Silencing Argument, as supposed by the charitable interpretation, he then proceeds to dismiss out of hand the possibility that the challenge can be met. But such a dismissal is not warranted; further argument is required to make this move, and Jacobson fails to fill in the gap.

Let us, then, put aside Jacobson's second claim, and take up instead the challenge posed to the defender of the Silencing Argument by the charitable interpretation of his first. Can the defender meet this challenge? We shall see in the next section that she can.

III. ILLOCUTIONARY ACTS

We have now two outstanding questions regarding the role of illocutionary acts in the Silencing Argument. The first, which came up in Section I, concerns illocutionary acts as a class:

(1) What distinguishes illocutionary acts from perlocutionary ones?

As we saw in Section II, it is essential to the argument that (1) be answered, for the silencing at issue in the Silencing Thesis must be understood in the illocutionary – rather than the perlocutionary – sense in order for the Free Speech Thesis to be plausible. The second question is Jacobson’s challenge, also mentioned in the previous section:

(2) What distinguishes the illocutionary acts which are protected by the right to free speech?

This pair of questions will be the focus of this section. I will begin by looking at an answer to question (1) offered by Hornsby’s account of illocutionary acts. I will argue that, though that account doesn’t succeed in providing an answer to (1) – contrary to what Hornsby herself supposes – it does yield a possible answer to question (2). Further, I will also suggest that the reason the account fails as an answer to (1) offers some insight into why an answer to that question has proven so elusive.

The chief claim of Hornsby’s account is that illocutionary acts may be characterized, as a class, by their role in communication. I shall dub this claim *The Illocution Thesis*:

The illocutionary features of an action are the ones that constitute it as a *communicative action*.¹⁷

Hornsby’s defense of this thesis has two parts: first, she offers an account of what distinguishes illocutionary acts; then, she goes on to suggest that the feature that distinguishes illocutionary acts is precisely the feature that constitutes any action that possesses it as a communicative action. I shall present Hornsby’s account in some detail, for it contains some valuable insights into the nature of the silencing in Example 1; though I will go on to reject parts of this account, these insights are

¹⁷ Hornsby formulates the claim in several ways. At different points, she writes that her aim is “provide an account of an idea of *illocution* which reveals the use of words to be *communicative action*”; that “some features of speech actions flow from something in the nature of linguistic communication itself, and those features, which are illocutionary ones, constitute the actions as of certain specifically communicative acts”; and also, that illocution is “the crux of all those actions which are communicative uses of language” (“Illocution and Its Significance,” pp. 187-195). My version of the Illocution Thesis is intended to capture what is common to these formulations.

nevertheless important, for they will ultimately help motivate a re-framing of the entire Silencing Argument.¹⁸

A. The Illocution Thesis

Consider again Ann's saying to Ben, "It's cold outside," just as he is about to leave the house without a coat. In doing so, she expresses the thought that it is cold outside. At the same time, her utterance may have certain other effects as well: for instance, it may serve to warn Ben that it is cold outside, to persuade him that it is cold outside, and further, to persuade him to put on a coat before venturing out. Achievement of each of these effects requires a different response on Ben's part. For instance, for Ann to succeed in warning Ben, it is sufficient that he recognize her intention to warn him; by contrast, if she also wants to persuade him that it is cold outside, his recognizing that she intends to do so will not suffice to bring about the desired effect. In the latter case, something further is necessary, such as his believing that she is in a position to know the temperature outside, and that she is not a chronic liar.

As suggested by this example, both illocutionary and perlocutionary acts aim at certain characteristic effects, the achievement of these being the success conditions for such acts: thus, the illocutionary act of warning aims to warn, and the perlocutionary act of persuading aims to persuade. And from the difference – described above – between what is required to achieve the characteristic effect of each act, Hornsby draws the following idea about how to distinguish illocutionary acts: only for these acts is the audience's recognition of the speaker's intention to perform the act sufficient to achieve the effect at which it characteristically aims. In other words,

¹⁸ It is worth noting here that the Illocution Thesis is very congenial to the Silencing Argument, for it lends support to the second step of the argument, namely, the defense of the Free Speech Thesis. As mentioned in Section II, the right to free speech is supposed to ensure that unpopular ideas get a hearing; that is, it is supposed to ensure that no one is prevented from communicating something simply because it is contrary to the interests, beliefs, or values of the majority, or of the powerful. But that suggests that the right to free speech is intended, in a sense, to protect the possibility of communication. Then, if the performance of illocutionary acts is constitutively linked to the use of words to communicate, as claimed by the Illocution Thesis, it also seems reasonable to suppose that the freedom to perform illocutionary acts is an aspect of the freedom of speech. But that is precisely what is required by the Free Speech Thesis.

according to Hornsby, to successfully perform an illocutionary act, it suffices to secure uptake for one's intention to do so. There is nothing more to successfully performing acts such as warning. By contrast, though uptake may be necessary for the successful performance of many perlocutionary acts as well, it is never sufficient.

Securing uptake is thus essential to the successful performance of illocutionary acts; but how is that uptake ever secured? That is, what enables an audience to recognize what a speaker means to do – illocutionarily – with her words? Hornsby replies that uptake can be achieved when there is what she calls *reciprocity* between the participants in a conversation. Reciprocity consists in a “certain receptiveness” or “attunement” on the part of the audience towards the speaker's attempted performances. This “attunement” enables the audience to be sensitive to what the speaker is trying to do.¹⁹ On Hornsby's view, reciprocity is both necessary and sufficient for securing uptake. This leads her to a second characterization of illocutionary acts: they are the ones which characteristically aim at effects that can be secured solely through reciprocity.

It is crucial to Hornsby's account that reciprocity is an aspect of “normal linguistic exchange,” that it is nothing extraordinary. Reciprocity is simply the basis for successful communication: a speaker succeeds in communicating with her audience to the extent that reciprocity obtains between them. Hornsby stresses that there is more to communication than the production by a speaker of sounds with certain contents, and the interpretation by the audience of those sounds as expressing those contents. In addition, communication also involves the publication of the speaker's intention to, for instance, tell her audience something, or ask him something, or warn him of something; moreover, communication is *successful* only when the audience recognizes these intentions. The existence of reciprocity makes this recognition possible.

We are now in a position to understand why Hornsby accepts the Illocution Thesis. Given her account of illocution – as characteristically aiming at certain effects, which are achieved by the audience's recognition of the speaker's intention to achieve those very effects – and her picture of

¹⁹ Hornsby, “Illocution and Its Significance,” pp. 192-193.

linguistic communication – as characteristically involving the publication and recognition of the speaker’s intentions – it is easy to see why she takes the illocutionary features of an action to be intimately connected with its communicative features. For her, then, the Illocution Thesis amounts to the following claim: in order for a speaker to succeed in communicating with her audience, her intended *illocutionary* acts must secure uptake.²⁰ Since, further, illocutionary acts secure uptake only when reciprocity obtains, it also follows that successful communication requires reciprocity.

B. An Objection to the Illocution Thesis

A remarkable feature of Hornsby’s account is that it hardly ever mentions the illocutionary acts with which Jacobson was primarily concerned, such as marrying, and voting, and further, knighting, exonerating, canonizing, and so on. Recall that Jacobson was moved to reject a comprehensive right to free illocution because, he argued, there can’t be any problem with denying convicted felons the right to vote, and twelve-year-olds the right to marry. Illocutionary acts such as warning, telling, asking, and stating are importantly different from the ones on which Jacobson focuses for the simple reason that the latter depend upon social institutions in a way that the former don’t. As mentioned in Section I, there are conventionalized procedures to be followed in marrying, such that there is no marriage if these procedures are flouted; by contrast, there are clearly no analogous conventionalized procedures governing the use “It’s cold outside” to warn.²¹

In concentrating on the conventionalized illocutions at the expense of the ones Hornsby favors, Jacobson follows Austin himself. Hornsby diagnoses this tendency of Austin’s as the reason for the latter’s mistaken – she argues – supposition that it is a matter of convention that a speaker

²⁰ Note that it is *not* Hornsby’s intention to argue that successful communication does not require uptake of the speaker’s intended locutionary acts as well. In general, a speaker’s illocutionary acts achieve uptake only when her locutionary acts do: thus, Ann’s utterance of “It’s cold outside” would not succeed as a warning if Ben failed to recognize the content expressed by her utterance. Rather, Hornsby’s point is that successful communication requires *more* than just the success of the locutionary acts.

²¹ Of course, all utterances may be said to be governed by *linguistic* conventions, which determine, for instance, what the words uttered mean. But this is not the type of convention at issue here: the marriage act is also governed by *social* conventions, which determine who can marry, and what one must do to marry. The point here is that it isn’t clear that there are analogous social conventions governing the act of warning.

who performs a locutionary act at the same time performs some particular illocutionary act. On her view, “[Austin’s] initial preoccupation with what is actually a very special class of illocutionary acts” led him to overemphasize the role of convention in illocution.²²

Is the difference of focus between Hornsby and Austin significant? To see that it is, consider again the illocutionary act of marriage: like warning, it also aims at a characteristic effect, namely, that the speaker be married. Unlike warning, however, that effect cannot be achieved simply by securing uptake: the audience’s recognition of the speaker’s intention to get married, though necessary for successful performance of the marriage act, is not sufficient. If the speaker is, for instance, known to be twelve years old, or already married, her utterance of “I do” will not count as marrying. Thus, though it is true that the marriage act requires uptake, that is not the only effect that must be achieved in order for this act to succeed.

On Hornsby’s account, the basis of the difference between perlocutionary and illocutionary acts is that the latter aim at certain effects which can be achieved purely by the audience’s coming to recognize the speaker’s intentions, through reciprocity; perlocutionary acts also aim at characteristic effects, of course, but more is required for their achievement. However, once we notice that acts of marriage, voting, and the like also belong in the realm of the illocutionary, we have to abandon Hornsby’s proposal for distinguishing between the illocutionary and the perlocutionary.

Yet another attempt to rescue the illocutionary-perlocutionary distinction thus proves inadequate; that may seem rather discouraging for the prospects of the Silencing Argument. But perhaps things are not as bad as they seem. The illocutionary acts in the examples on which the Silencing Argument turns are clearly more similar to warning than to marriage: the woman in Example 1 is illocutionarily disabled because her audience fails to recognize her intention to refuse, not because she flouts any conventionalized procedures governing the act of refusal. Were he – her

²² Hornsby, “Illocution and Its Significance,” p. 192.

audience – to recognize her intention, that would suffice for the success of her illocutionary act. Nothing further is required for the success of an act of refusal.

But this suggests that the feature that Hornsby mistakenly takes to characterize illocutionary acts as a class does in fact characterize the sub-class of illocutionary acts that are of interest to the Silencing Argument, in the following way: only disablement of illocutionary acts having this feature counts as silencing in the sense that is of particular concern for a defender of the Silencing Argument, that is, in the sense that constitutes an infringement of the right to free speech. Therefore, for the purposes of the Silencing Argument, it would be sufficient to show that the right to free speech protects just the illocutionary acts that belong to that sub-class. The sub-class in question, of course, is the one consisting of illocutionary acts that are successfully performed if the audience recognizes the speaker's intention to perform them, that is, if uptake is achieved. And this constitutes progress because this gives us a possible answer to Jacobson's challenge, that is, the problem of distinguishing the illocutionary acts that are protected by the right to free speech.

To recapitulate, we began this section with a pair of questions about the role of illocutionary acts in the Silencing Argument: how they are to be distinguished from perlocutionary acts, and how the ones that are protected by the right to free speech are to be distinguished from the rest. We considered Hornsby's proposed answer to the first question: she suggests that illocutionary acts are the ones that can be successfully performed by achieving uptake. Unfortunately, this suggestion doesn't work, for it excludes from the realm of the illocutionary the very acts that Austin took to be paradigmatic of that realm, such as marriage. However, it does open up a way of responding to the second question, once we notice that the illocutionary acts in the examples central to the Silencing Argument do fit Hornsby's description: we thus have a way of isolating the sub-class of illocutionary acts that are pertinent to that argument, and consequently, a possible answer to the second question.

C. *Purely Communicative Acts*

Recall now the second part of Hornsby's defense of the Illocution Thesis. Hornsby contended that (successful) communication consists in the speaker's publication of her intention to do certain things with her words, and the audience's recognition of those intentions. Accordingly, we may call acts which have the following feature *purely communicative acts*: they are successfully performed if the audience recognizes the speaker's intention to perform them. Though Hornsby errs in supposing that all illocutionary acts are purely communicative, this is no reason to reject either her conception of successful communication – which seems right – or her insight that many, perhaps even most, illocutionary acts are purely communicative. Warning, for one, belongs in that category, as does refusal. One way of putting my proposed answer to Jacobson's challenge is to say that the illocutionary acts that are protected by the right to free speech – and therefore, the ones that are of particular interest to the Silencing Argument – are precisely the purely communicative ones.

Marriage, by contrast, is *not* a purely communicative act; nor are voting, knighting, exonerating, or canonizing. Unlike the purely communicative acts, an act of marriage does not primarily aim to communicate something; rather, the primary aim of a marriage act is just that that the speaker be married, and this cannot be achieved through communication alone. This points to a deep heterogeneity in the class of illocutionary acts, between those acts that are purely communicative and those that are not. That heterogeneity, in turn, casts doubt on the extent to which the acts that Austin identified as illocutionary have anything in common, and therefore, partly explains why a distinguishing criterion for the class has proven so elusive.

By framing the Silencing Argument in Austinian terms, Hornsby and Langton run the risk of obscuring the sense of silencing that is really at issue there: it is not illocutionary disablement that should be the focus, but rather, to coin a phrase, *communicative* disablement, or inability to perform purely communicative acts. Failure to grasp this point has led critics such as Jacobson to complain that the defender of the Silencing Argument is committed to a comprehensive freedom of illocution. To avoid such confusion, the Silencing Argument should rely on a theory of communication, which, *contra* Hornsby, Austin's theory of illocution is *not*. Furthermore, the

argument should also avoid using the distinction between illocutionary and perlocutionary acts, in light of the continuing futility of efforts to clarify that distinction. As I shall argue in the remainder of this chapter, all of this can be accomplished by abandoning the Austinian framework, and re-framing the Silencing Argument in terms of the theory of communication suggested by Paul Grice.

IV. SPEAKER'S MEANING

In his 1957 article "Meaning," H.P. Grice proposed an account of what it is for a speaker to mean something on a particular occasion by producing an utterance. For Grice, this was the first step in a much larger project of elucidating the various notions of linguistic meaning, including word meaning, expression meaning, and sentence meaning. The guiding idea behind this project was that all such notions can be reduced to the basic notion of speaker's occasion-meaning. This last notion, in turn, was intended to capture those uses of the word 'mean' that are "specially connected with communication"²³: that is, what a speaker means on a particular occasion is supposed to be closely related to what she is trying to communicate on that occasion. In what follows, I shall have nothing to say about the larger project; rather, I shall focus here only on Grice's account of what it is for a speaker to attempt to communicate, with the ultimate aim of using this account to understand what goes wrong in Example 1.

A. The Gricean Framework

Suppose that I want to convey to Mr. X that Mr. Y has been displaying "undue familiarity" towards Mrs. X.²⁴ I might try to do this by pursuing any of several strategies, including either of the following:

Strategy 1: I present Mr. X with a photograph of Mr. Y and Mrs. X in a compromising situation.

²³ H. Paul Grice, "Utterer's Meaning and Intentions," in his *Studies in the Way of Words* (Cambridge, MA: Harvard University Press, 1989): 88.

²⁴ This is one of Grice's own examples, slightly elaborated. See Grice, "Meaning," p. 218.

Strategy 2: I sketch a picture of Mr. Y in such a position, and show that to Mr. X.

Consider Strategy 1 first: in giving Mr. X the photograph, I attempt to convey information about Mr. Y's behavior by providing "direct evidence" of that behavior. If, upon viewing the photograph, Mr. X perceives what is happening in it, I will have succeeded in my endeavor. I will have fulfilled what we might call my *informative intention*, namely, my intention to inform Mr. X that Mr. Y has been unduly familiar with his wife.

Of course, it isn't in general convenient – or, in most instances, even possible – for a speaker to satisfy her informative intention by supplying direct evidence of what she wants to convey. Direct evidence about events in the past, for example, is usually difficult to procure; therefore, if providing such evidence constituted our only means of relating thoughts about the past, we would be severely constrained with respect to what we could convey. But, in fact, direct evidence is not often necessary. Grice's central insight is that, in order to inform an audience of something, it generally suffices for the speaker to provide evidence, not of what she intends to convey, but of her intention to convey this; that is, it generally suffices for the speaker to provide evidence of her informative intention. This is precisely what I try to do when I draw a sketch for Mr. X: my drawing is intended to serve as evidence of my intention to inform him of something, namely, Mr. Y's behavior. If Mr. X interprets my utterance – my drawing of the sketch – correctly, he will come to recognize my intention to inform him about Mr. Y's behavior; if, moreover, he considers me a sincere and trustworthy source in such matters, he will also come to believe that Mr. Y has been behaving in a familiar manner with Mrs. X, thus satisfying my informative intention.

Clearly, then, I might satisfy my informative intention by pursuing either of the strategies mentioned above. Nevertheless, the two strategies differ crucially in that it is only the second that requires for its success – viz. the satisfaction of my informative intention – that Mr. X recognize that I have that intention. In order for that second strategy to work as intended, Mr. X must recognize my utterance as an attempt on my part to *inform* him of something. If he fails to recognize this – if he supposes instead that I am just doodling, for instance – my utterance may very

well not have the effect I want it to have. Moreover, if, instead of drawing the sketch in his presence, I had left it for him to find in an apparently accidental way, he would be more likely to take it for idle doodling, being unaware of any informative intention; as a result, he would be less likely to infer from it the inappropriateness of Mr. Y's behavior. By contrast, had I arranged for him to find the photograph in the same apparently accidental manner, he would be more likely to perceive the inappropriateness of Mr. Y's behavior, even without recognition of any informative intention. Therefore, the publication of my informative intention is essential only to the success of Strategy 2, not to that of Strategy 1.

According to Grice, it is this difference that makes my drawing the sketch – but *not* my producing the photograph – an instance of a speaker meaning something by her utterance. It is a necessary condition for communication taking place, on the Gricean view, that the speaker have not only an informative intention, but two further intentions as well: first, what we may label her *communicative intention*, which is her intention to get her audience to recognize that she has a certain informative intention; and second, her intention to satisfy her informative intention by virtue of satisfying her communicative intention. This analysis is summarized in the following set of necessary and sufficient conditions for a speaker's meaning something by her utterance²⁵:

An utterer U meant something by uttering x iff, for some audience A , U uttered x intending:

- (a) A to produce a response r ;
- (b) A to think (recognize) that U intends (a); and,
- (c) A to fulfill (a) on the basis of his fulfillment of (b).

Intention (a) is what I have called the speaker's *informative intention*, while intention (b) is her *communicative intention*. *What* a speaker means, on any particular occasion, is given by the content of the response she intends to produce in her audience. Thus, for instance, when I draw Mr. X a

²⁵ It is worth noting that Grice uses 'utterance' in "an artificially wide sense, to cover any case of doing x or producing x by the performance of which [an utterer] U meant that so-and-so. The performance in question need not be a linguistic or even a conventionalized performance" ("Utterer's Meaning, Sentence-Meaning, and Word-Meaning," in his *Studies in the Way of Words* (Cambridge, MA: Harvard University Press, 1989): 118).

picture, I mean that Mr. Y has been unduly familiar with Mrs. X.²⁶ The third clause of the analysis requires that the fulfillment of (b) give the audience a *reason* to fulfill (a), though typically, it is not by itself sufficient reason. Something further is generally necessary for the audience to satisfy (a): in the example we have been considering, Mr. X satisfied my informative intention – by producing the relevant belief about Mr. Y’s behavior – on the basis of his satisfaction of my communicative intention, along with his confidence in my reliability and trustworthiness.

B. What Goes Wrong in Example 1

With Grice’s account before us, we can now return to Example 1. In that example, a woman attempted to refuse a man’s sexual overtures, but her attempt failed to have the desired effect, namely, to make him stop. Among the several possible explanations for this failure, the one that was of particular interest to the proponent of the Silencing Argument held that the woman’s utterance failed to make the man stop because it didn’t – and couldn’t – achieve uptake: certain attitudes held by her audience rendered him unable to recognize her attempt to refuse as such. Consequently, there was a breakdown of reciprocity, and the woman was thereby illocutionarily disabled.

Since this example makes crucial use of the act of refusal, we need to pay more attention to what sort of act this is supposed to be. Acts are characterized, at least partly, by the effects at which they aim, and by the conditions required for their successful performance. With this in mind, we need to ask: at what sort of effect does the act of refusal aim? What conditions must obtain for a successful performance of this act?

Suppose Ben offers Ann a cup of coffee, and she wishes to refuse it. At least part of what she wants to do, in refusing, is to let Ben know that she does not want that coffee. That suggests that the following is a characteristic effect at which acts of refusal aim: in refusing, the speaker attempts to produce in her audience a belief about her own desires, a belief to the effect that she

²⁶ This is not to suggest, however, that all utterances aim to produce beliefs, or even that all utterances aim at responses that are specifiable using a *that*-clause.

does not desire what is being offered. Unfortunately, that isn't quite right, since it isn't always the case that a person doesn't want what she refuses. For instance, Ann may refuse the coffee because she thinks that coffee is bad for her heart, even though she very much wants the jolt of caffeine to wake herself up. It seems unattractive to say that, in refusing, Ann misrepresents herself as lacking desires that she in fact has. But this difficulty is easily fixed if we consider the example a little further: given that Ann refuses, it would seem that her desire for the coffee is outweighed by her desire to do what is good for her heart. So, when a person refuses something, she doesn't want it, *all things considered*, and it is this all-things-considered desire that she attempts to communicate via her refusal.²⁷

If it is right that acts of refusal have this communicative component, then we should be able to give a Gricean account of what a speaker means by producing an utterance that is intended to constitute a refusal. Looking once again at Example 1, it seems right to say that when the woman in the example says "No," she means – among other things – that she does not want to have sex with the man to whom she is speaking. Then, according to the Gricean analysis, the woman must have the following triad of intentions: she must intend that,

- (a) her audience be informed – or equivalently, come to believe – that she does not want to have sex with him;
- (b) her audience come to recognize that she has the informative intention mentioned in (a); and finally,
- (c) her audience satisfy her informative intention on the basis of his satisfaction of the communicative intention mentioned in (b).

If all goes well, he will recognize her informative intention, thereby satisfying her communicative intention (b); this recognition, when paired with certain attitudes towards the speaker – such as a

²⁷ An account of refusal that understands the act as an attempt to convey a desire seems to me preferable to an account that understands it as an attempt to convey an intention. Suppose that I am being mugged, and the mugger demands that I hand over my wallet. It may be clear to me that there is nothing I can do to prevent the wallet from being taken from me, since the mugger is much bigger than I; as a result, I can't intend not to hand over my wallet to him. But it seems that I *can* still refuse to hand over my wallet, which suggests that refusals seek to convey something weaker than intention.

belief to the effect that she is being sincere – will suffice for him to infer that she does not want to have sex with him. If all of this takes place, they will succeed in communicating on this occasion.

But of course, all does *not* go well in the example we are considering. The man does not come to believe that the woman does not want to have sex with him; so, her intention (a) is not satisfied. It is at this point that the Gricean framework becomes particularly useful, for it allows us to distinguish several different reasons an audience might fail to produce the response the speaker wants him to produce. Distinguishing these possibilities helps throw light on what is required for successful communication, as well as on what is required to remedy failures. With this in mind, let us canvass some of the possibilities with respect to Example 1.

C. Possibility 1: The speaker's communicative intention is not satisfied

The first possibility I shall consider is that the woman in Example 1 says “No,” but her audience fails to recognize her informative intention, i.e., her intention to inform him that she does not want to have sex with him; in so doing, he fails to satisfy her communicative intention. There are at least two ways in which this possibility might be realized:

Possibility 1A: He (the audience) fails to recognize that she has an informative intention at all.

Possibility 1B: He recognizes that she has some informative intention or other, but mistakes the content of her informative intention, i.e., mistakes the nature of the response she wants him to produce.

To complicate matters further, 1A and 1B can each be realized in more than one way. However, in the interest of intelligibility, I will ignore most of these sub-possibilities, focusing instead only on 1A, and moreover, only on one way of realizing 1A.

To understand how the man in Example 1 could fail to see that the woman has any informative intention whatsoever, we need to remember the sort of context in which they are situated. It is a sexual context: that is, it is a context in which the man has made sexual overtures towards the woman. The woman is thus an object of sexual desire for the man. On certain views of sexual desire, to be an object of someone's sexual desire is just to be regarded by that person as

an object, suited – by virtue of its “nature” – for use by him for his sexual gratification.²⁸ Roughly, something is regarded – and treated – as an object if it is taken to have only instrumental value, that is, taken to have value only insofar as it can be used for the achievement of desirable ends: in particular, objects of sexual desire are taken to derive their value from their suitability for use in achieving sexual gratification.

Unlike persons, objects may be put to use without being consulted about their needs and desires. In fact, for many objects, it is a category mistake to think of them as having needs and desires. Consider, for instance, the absurdity of trying to ascertain the needs and desires of a table, before using it as a writing desk. Other objects – or entities that, for certain purposes, may be regarded as objects – may be said to have needs and desires, but these can nevertheless be ignored when they are to be used for the purposes for which they are suited by their objecthood. On some views, animals are objects in this sense.

If to regard a woman as an object of sexual desire is to regard her as an object in either of these senses – that is, either as not having needs and desires, or as having needs and desires that can be discounted in sexual contexts – then the man who thus desires her will not seek her consent to intercourse. In fact, he may not even recognize that her consent is necessary, since it is a consequence of something’s being regarded as an object that its needs and desires, if any, are taken to be discountable. Therefore, though he hears her utter words, he may not regard her as a speaker, in the sense of having anything to say that is relevant to the situation. And if he doesn’t count her as a speaker, he will certainly fail to recognize any informative intention she may have.

It is worth noting that this account of how Possibility 1A might come to be realized – that is, of how the man in Example 1 could fail to realize that the woman has an informative intention, despite her saying “No” – does not assume that all sexual desire is objectifying in the manner described above; all that is needed is the premise that *some* sexual desire fits that description. This

²⁸ For an interpretation of MacKinnon according to which she holds such a view of sexual desire, see Sally Haslanger, “On Being Objective and Being Objectified,” in *A Mind of One’s Own: Feminist Essays on Reason and Objectivity*, edited by Louise M. Antony and Charlotte Witt (Boulder, CO: Westview Press, 1993): 85-125.

is, of course, in part an empirical claim, and so beyond the scope of the present project; but it seems to me at least plausible.

D. Possibility 2: The speaker's third intention is not satisfied

A different possible explanation for the failure in Example 1 is this: the woman says “No,” but the audience does not satisfy her informative intention on the basis of his recognition of her communicative intention. Again, there are a couple of ways that this might happen:

Possibility 2A: He fails to satisfy her communicative intention.

Possibility 2B: His recognition of her communicative intention does not constitute for him a reason to satisfy her informative intention.

2A is, of course, just Possibility 1 again: we have already discussed, albeit briefly, one way in which that possibility might be realized. Let us therefore turn to 2B: what sort of conditions must obtain in order for that possibility to be realized? As before, in the interest of intelligibility, I will concentrate on just one of the possible answers to this question.

In the previous section I considered the kind of sexual desire that regards and treats any object of that desire as an object having only instrumental value; I argued that a consequence of such desire is that its objects are regarded as not having needs and desires of their own, or else, as having needs and desires that may be ignored. To be distinguished from this – but just as problematic in its own way – is the kind of sexual desire that *projects* onto its object the needs and desires the subject wants her to have.²⁹ As such, the object of the desire is understood to have needs and desires, and these needs and desires are even taken to be relevant to the context in question: that is, it is not supposed that she is suited by her “nature” for use for purposes of sexual gratification, regardless of whether she wishes to be so used. The mistake here is of a different kind: the woman is regarded as having desires that she doesn’t in fact have. In particular, she is taken to have the desire to engage in sexual intercourse with the man who so desires her.

²⁹ For a conception of sexual desire along these lines, see Langton, “Love and Solipsism,” in *Love Analyzed*, edited by Roger E. Lamb (Boulder, CO: Westview Press, 1997): 123-152.

How can such a mistake be made? That is, how can someone not pathologically disturbed suppose that a woman who clearly says “No” in fact harbors a desire to have sex with him? Once again, showing that such mistakes do take place is, in part, an empirical matter; the most that I can do here is to suggest a possible explanation.

It is a platitude that, in many of our social interactions, we bring to the table beliefs, expectations, etc. about how those interactions are likely to proceed: these include suppositions about what the other concerned persons are likely to say, how they are likely to behave, and so on. On some occasions, these attitudes will be founded on what we know about the persons with whom we happen to be interacting; on other occasions, especially – but not only – where that personal information is not available, the attitudes will instead be founded on the social and cultural roles we take the others to occupy. For instance, in restaurants, we expect the waiters to act in certain ways and not others: we expect them to be helpful, to some extent deferential, not loud or disruptive, etc. These expectations, I suggest, are all founded on the cultural role of *Waiter*, with which we are all familiar, and which we expect particular waiters to satisfy.

In a similar vein, we might suppose that the man in Example 1 has certain expectations about how an interaction between a man and a woman is likely to proceed, and that these are partly based on what he takes the cultural roles of *Man* and *Woman* to be. This is not in itself problematic; a problem arises only if he has certain conceptions of these cultural roles. In particular, if he supposes that women are likely, in sexual contexts, to be coy, to not want to appear too forward, to pretend to not want sex, then he will take a woman who says “No” in such a context to be insincere. He may very well understand the meaning of the word, and even recognize that its utterance would be indicative, in many circumstances, of the speaker’s intention to refuse what he is offering. But because he thinks that she actually does want sex, he takes her “No” to be something other than an expression of her desire not to have sex with him: perhaps he takes it instead as an invitation for him to “convince” her, that is, as an opening gambit in a bit of role-playing in which she *pretends* to be reluctant. As a result, his satisfaction of her communicative

intention doesn't constitute for him a reason to satisfy her informative intention. In short, Possibility 2B is realized.

V. ADVANTAGES OF ADOPTING A GRICEAN FRAMEWORK

In motivating their reliance on Austin's work in framing the Silencing Argument, both Hornsby and Langton emphasize his attention to the *acts* that are performed in and by producing linguistic utterances, as opposed to the contents – the meanings – that are thereby expressed. Langton reminds us that Austin warned of a “constant tendency in philosophy” to focus on the latter at the expense of the former³⁰; further, both Hornsby and Langton argue that this tendency has to be overcome in order to understand the Silencing Thesis. On their view, it is only when we appreciate that we do many different things with words – besides expressing contents – that we can begin to see that there are forms of silencing that don't require that anyone be prevented from uttering sounds, or inscribing marks: in order to silence someone, it is enough to prevent them from doing some of the (non-locutionary) acts they seek to perform with their words. If this is right, then the tendency of which Austin complained obscures the possibility of these other forms of silencing.

I have argued in this chapter for two related claims: first, that we needn't rely on the Austinian framework to make out the sense of silencing with which Hornsby and Langton are concerned; and second, that using the Austinian framework is in fact more of a hindrance than a help in this project, for it gives rise to difficulties that are avoidable on a different way of understanding silencing. The first claim follows from the discussion in the previous section, where it was argued that the Gricean framework of speaker's meaning can be used to explain how the speaker in Example 1 is silenced. The sense of silencing in which Hornsby and Langton are particularly interested is illocutionary disablement, as illustrated by the inability of the woman in Example 1 to perform the act of refusal. Using the Gricean framework, we can see that this illocutionary disablement can happen in any of several ways, two of which were discussed in some

³⁰ Langton, “Speech Acts and Unspeakable Acts,” p. 295.

detail in the previous section. Both are ways of silencing of the sort that Hornsby and Langton have in mind: in both, the man's forcing sex on the woman can, in part, be explained by his failure to understand her, rather than by his recognizing but choosing to ignore her refusal.

Given that we needn't be tied to the Austinian framework, the second claim – that that framework is more of a hindrance than a help – follows from the discussion in Section III. I argued in that section that the sense of silencing in which Hornsby and Langton are interested – and which they take to be a violation of the right to free speech – is not illocutionary disablement *simpliciter*, but rather, disablement of a particular sub-class of illocutionary acts. I dubbed the members of the sub-class the *purely communicative acts*, because the primary aim of any such act is to communicate something to an audience. *All* the acts that are instances of a speaker's meaning something by her words – in accordance with the Gricean analysis – are purely communicative in this sense. But this means that we no longer have to identify the acts that are of particular interest to the Silencing Argument as a sub-class of illocutionary acts: the Gricean analysis gives us an alternate way of identifying them. As a result, we also no longer need either a criterion for distinguishing illocutionary acts as a class, or one for distinguishing the particular sub-class in question. The need for either criterion is eliminated once we leave the Austinian framework, which is part of why that framework is really a hindrance with respect to understanding the Silencing Argument.

Two further points in favor of adopting the Gricean framework: first, because the Gricean framework makes it particularly easy to distinguish different ways that a speaker and an audience can miscommunicate, it actually helps us get a better grip on the senses in which the woman in Example 1 may be silenced. Langton, for one, concentrates on silencing in contexts in which “consent is the *only* thing a woman can do with her words”³¹: a context in which the audience projects onto the speaker desires that she doesn't in fact have is an instance of this. But, as we saw, the silencing can happen in other ways as well, such as if the woman is not regarded as a speaker at all: in that case, she is not thought to be either consenting or refusing, for, in light of her assigned

³¹ Langton, “Speech Acts and Unspeakable Acts,” p. 324.

status as object, her consent/refusal is taken to be irrelevant to the situation. Distinguishing the ways in which the silencing can take place helps make clear the empirical commitments of the argument, for it brings to light different ways in which pornographic speech can contribute to the silencing.

Second, adopting the Gricean framework allows us to avoid what Jacobson dubs “a strange and troubling consequence” of the Silencing Argument.³² The consequence he has in mind is that, because she is illocutionarily disabled, the woman in Example 1 in fact fails to refuse the man’s sexual overtures; this follows from Austin’s view of illocutionary acts, according to which a speaker does not succeed in performing an illocutionary act unless she secures uptake. On this view, the speaker in Example 1 attempts to refuse, but doesn’t manage to do so. But where there is no refusal, worries Jacobson, there can be no rape. This difficulty doesn’t arise on the Gricean view. On that view, the speaker, in saying “No,” means that she doesn’t want to have sex with the man just in case she has the three intentions mentioned in the analysis. Since a person can have intentions without having them be recognized by others, a speaker can mean something without having that meaning be understood by her audience. Further, because the speaker in Example 1 does mean that she doesn’t want to have sex with the man, his forcing sex on her constitutes rape.³³

Austin was surely right to complain of the tendency among philosophers to ignore the variety of acts that can be done with words. But it is worth noting that this insight doesn’t sit well with the aspirations of the Silencing Argument. After all, the upshot of the argument is supposed to be that silencing in the sense in question contravenes women’s right to free *speech*. But if the silencing is constituted by women’s inability to perform certain *actions*, then it is unclear why the conflict should be with the speech right, rather than any other. That is, it is certainly true that

³² Jacobson, “Freedom of Speech Acts?” p. 77.

³³ There are other ways of resisting this point of Jacobson’s. Hornsby and Langton point out, in response to the same point, that absence of refusal isn’t the same as consent, and where there is no refusal, there may still be rape. So they aren’t committed to the admittedly bizarre view that the woman in Example 1 isn’t raped because she fails to perform the illocutionary act of refusal. Hornsby and Langton, “Free Speech and Illocution,” p. 31. But it is worth noting that, on the Gricean view, we can say that the woman in Example 1 does refuse, which seems the right thing to say.

being prevented from performing certain actions might constitute a rights violation, depending on, among other things, who is being thus prevented, and from what action; but in most such instances, the right in question is not the right to free speech.

Re-framing the Silencing Argument in terms of a theory of communication helps make clear why it is speech – and in particular, women’s ability to speak and be understood – that is at issue. Even if we disagree with Hornsby and Langton about their preferred conception of the right to free speech, I think that we must agree with them about our reasons for valuing speech: in part, we value speech because we think it important that minority and disempowered groups be able to get a hearing. The woman in Example 1 is unable to make her audience hear what she wants to tell him: that is why she is silenced. Though it is surely also true that women are excluded from certain social institutions – just as blacks were excluded from voting under apartheid, and homosexuals are excluded from marrying in the U.S. – that is not part of the explanation of why and how they are silenced. Their silencing is due to the frustration of their *communicative* capacities. Relying upon the Austinian theory of speech acts obscures this point.

Chapter 2

Who's Responsible for Understanding?

INTRODUCTION

In this chapter, I shall be concerned with the idea that it is possible for a speaker to be unable to make herself understood, even when her audience hears every word she utters. I shall say that a speaker whose utterance goes astray in this manner is thereby *silenced*: several examples of this phenomenon will be presented in the following sections. It has been suggested that certain groups of speakers are particularly liable to be affected by this phenomenon, and that, as a result, they are systematically disadvantaged: so, for instance, the philosophers Rae Langton and Jennifer Hornsby have claimed that women's speech is particularly subject to this difficulty, and moreover, that this constitutes a systematic harm to women. Further, they have argued, the silencing of women is attributable, in large part, to pornography: that is to say, they hold pornography *responsible* for this silencing.¹ These are three of the main claims that Langton and Hornsby want to make about this phenomenon of silencing.

I am interested especially in the third of these claims, that is, the claim that pornography is responsible for the silencing of women. In order for this claim to be true, it must be the case that it makes sense to attribute responsibility for at least some instances of silencing to parties other than the speaker or the audience in a particular speech situation. Critics of Hornsby and Langton have suggested that this is a crucial difficulty for their argument. I shall defend Hornsby and Langton against this particular objection: so, I shall argue that it *does* make sense, under certain circumstances, to attribute responsibility for an instance of silencing to some party other than the speaker or the audience in a given speech situation. Though pornography sets the context for this particular debate, my concern here is with the phenomenon of silencing more broadly: that is to say, I shall to understand how we can attribute responsibility for silencing to some party other than the

¹ Hornsby and Langton have made these claims in a number of recent papers. To mention but a few: Rae Langton, "Speech Acts and Unspeakable Acts," *Philosophy and Public Affairs* 22 (1993): 293-330; Jennifer Hornsby, "Disempowered Speech," *Philosophical Topics* 23 (1995): 127-147; Jennifer Hornsby and Rae Langton, "Free Speech and Illocution," *Legal Theory* 4 (1998): 21-37.

speaker or the audience in the first place, leaving aside the *further* question about how we might attribute responsibility to *pornography* in particular.

I. SILENCING: A BRIEF INTRODUCTION

Before proceeding any further, let me present some examples of the phenomenon that constitutes silencing in my sense. Here's the first example: those of you who are familiar with Jane Austen's *Pride and Prejudice* may recall the extraordinary scene in which the novel's protagonist, Elizabeth Bennet, receives an offer of marriage from her cousin, the tedious Mr. Collins. Miss Bennet wishes to refuse this offer. The following exchange takes place when she attempts to communicate her refusal to Mr. Collins:

"You are too hasty, Sir," she cried. "You forget that I have made no answer. Let me do it without farther loss of time. Accept my thanks for the compliment you are paying me. I am very sensible of the honour of your proposals, but it is impossible for me to do otherwise than decline them."

"I am not now to learn," replied Mr. Collins, with a formal wave of the hand, "that it is usual with young ladies to reject the addresses of the man whom they secretly mean to accept, when he first applies for their favour; and that sometimes the refusal is repeated a second or even a third time. I am therefore by no means discouraged by what you have just said, and shall hope to lead you to the altar ere long."

"Upon my word, Sir," cried Elizabeth, "your hope is rather an extraordinary one after my declaration. I do assure you that I am not one of those young ladies (if such young ladies there are) who are so daring as to risk their happiness on the chance of being asked a second time. I am perfectly serious in my refusal."

... "When I do myself the honour of speaking to you next on this subject I shall hope to receive a more favourable answer than you have now given me; though I am far from accusing you of cruelty at present, because I know it to be the established custom of your sex to reject a man on the first application, and perhaps you have even now said as much to encourage my suit as would be consistent with the true delicacy of the female character."²

How should we understand what goes on in this example? One thing we could say is that Mr. Collins simply doesn't *believe* that Miss Bennet really doesn't want to marry him. But notice that

² Jane Austen, *Pride and Prejudice*, edited by James Kinsley (Oxford: Oxford University Press, 1980): 79-83.

this interpretation doesn't sit well with the response Mr. Collins actually gives: after all, in the passage I quoted, Mr. Collins isn't trying to *change* Miss Bennet's mind, as he presumably would do if he believed that she really meant to refuse. Rather, he seems to take her words as the opening move in some sort of scripted performance, in which her part is to appear reluctant, and his to continue to press his suit: his reliance on such a script is suggested by his saying that "it is *usual* with young ladies to reject the addresses of the man whom they secretly mean to accept, when he first applies for their favour; and that sometimes the refusal is repeated a second or even a third time."³ He then goes on to refer to this as "an established custom." This suggests, I think, that the best explanation for what goes wrong in this exchange is not simply that he doesn't *believe* that she doesn't want to marry him, but that he doesn't even *understand* that that is the case.

Accordingly, I propose the following analysis of what happens in the exchange between Miss Bennet and Mr. Collins: Miss Bennet wants to refuse his proposal. This is to say, among other things, that she has a particular intention towards Mr. Collins: she intends that he recognize that she is trying to get him to believe something, namely, that she doesn't want to marry him. Intentions having this structure are often called *communicative intentions*; they play a crucial role in an influential account of communication, due to H.P. Grice, upon which I shall rely in this chapter.⁴

According to this account, in order for a speaker and an audience to communicate, it isn't enough that the speaker should want to inform the audience of something, and the audience come to be informed somehow or other. Rather, on this view, what distinguishes communication from other ways of conveying information, such as subliminal suggestion, is that the audience comes to be informed of the relevant thing in part because he recognizes the speaker's intention to inform him of that thing. So successful communication requires awareness, on the audience's part, of what the speaker is attempting to do. The speaker's communicative intention is precisely an intention on her part to get the audience to recognize what she is trying to do.

³ Emphasis mine.

⁴ This account is described in Grice's "Utterer's Meaning and Intentions," in his *Studies in the Way of Words* (Cambridge, MA: Harvard University Press, 1989): 86-116.

So, in attempting to refuse, Miss Bennet has a communicative intention towards Mr. Collins. Unfortunately, the latter doesn't satisfy that intention: he *doesn't* come to think that she is trying to get him to believe that she doesn't want to marry him. Consequently, though he understands the words that Miss Bennet utters, he doesn't understand her refusal. This is the kind of failure that counts as silencing in my sense.

To allay the worry that the phenomenon I am describing is confined to novels of the pre-Victorian era, let me briefly mention some more contemporary examples. First, an example that has been discussed extensively in the literature on silencing: at the end of a dinner date, a man makes sexual overtures towards a woman. The woman says "No," intending to refuse. The man believes that women generally want sex, but also that they tend to be coy in sexual situations, that they want not to appear too forward. As a result, though he hears her "No," there is no uptake on his part of her refusal. He goes on to force sex on her.

Next, an example mentioned by Rae Langton: Linda Marchiano, working under the pseudonym of Linda Lovelace, was the star of *Deep Throat*, one of the most popular pornographic films of all time. Some time after the making of the film, Marchiano wrote a book called *Ordeal*, in which she described how she was "beaten, tortured, and hypnotized" into performing her starring role in this film. Marchiano wrote *Ordeal* to protest the treatment of sex workers in the pornographic industry. Yet *Ordeal* regularly appears in so-called "adult reading catalogs." Langton quotes the following entry from one such catalog:

No. 427 ORDEAL: an autobiography by Linda Lovelace. With M. McGrady. The star of *Deep Throat* tells the shocking story of her enslavement in the pornographic underworld, a nightmarish ordeal of savage violence and unspeakable perversion, of thrill seeking celebrities and sadistic criminals. For Sale to Adults Over 21 Only.⁵

Thus, what was written in protest of the pornographic industry is itself sold as pornography.

In both the date rape example and the *Ordeal* example, the speaker has certain communicative intentions towards her audience: in the first case, she wants to communicate a refusal, while in the second, she wants to communicate a protest. In both cases, the speaker's

⁵ Rae Langton, "Speech Acts and Unspeakable Acts," *Philosophy and Public Affairs* 22 (1993): 321.

communicative efforts fail to accomplish what she wants them to accomplish: in the first case, she is raped, while in the second, her utterances are themselves used as pornography. *One* explanation for what goes wrong in these examples is that the audience just fails to satisfy the speaker's communicative intention: in the first case, he doesn't come to think that the speaker really wants him to believe that she doesn't want to have sex with him, while in the second case, he doesn't come to think that the speaker wants him to feel indignation and anger towards the practices of the pornographic industry. It is not my intention to suggest that *every* case of date rape and *every* case in which *Ordeal* comes to be regarded as pornography should be explained in this way. Rather, my point is only that this might be the right explanation for *some* of these cases.⁶

To summarize: on my view, a speaker is silenced if the following conditions hold. Even though,

- (i) The speaker makes her communicative intention "plain" in the sense of literally saying what she means in a normal tone of voice;

and,

- (ii) Her intended audience hears and pays attention to the words she utters;

nevertheless,

- (iii) They (the audience) fail to satisfy the speaker's communicative intention.

Henceforth, I shall assume that silencing in this sense *does* sometimes happen, that speakers *are* occasionally unable to make themselves understood, even though their audiences attend to what they say. What I want to do now is to recall the claims, mentioned in the Introduction to this chapter, that women are particularly liable to be silenced, that they are as a result systematically disadvantaged, and further, that pornography should be held responsible for this silencing. In the remainder of this chapter, I shall focus on an important objection to these claims; I shall show that

⁶ Of course, whether this is the correct explanation in any *particular* case is, in the end, an empirical matter. The most that I can do here is to make clear what this explanation *is*. Further examples of silencing will be mentioned later in this chapter: I think that the examples, taken together, strongly suggest that the phenomenon is some ways rather quotidian.

this objection, though ultimately unsuccessful, does help illuminate what is needed to establish these claims. To that objection, I now turn.

II. THE MAIN CHALLENGE

Here's one kind of story we can tell in support of the claim that pornography should be held responsible for women's silencing.⁷ Pornography, it may be argued, produces in its consumers beliefs that prevent them from recognizing that women sometimes want to refuse sexual overtures, or that they do not all enjoy sexual degradation and violence. For instance, the belief that women tend to be coy, that they don't say what they mean, especially in sexual contexts, may be supposed to contribute to the silencing of the speaker in the date rape example; this is a belief that is often produced and certainly supported by pornography. Precisely because it is the source and support for such beliefs, pornography may be held responsible for women's silencing. Or so this story goes.

Against this, it has been objected that *even if* this story could be shown to be true, it doesn't actually settle the question about responsibility. According to this story, certain audiences, who happen to be consumers of pornography, fail to recognize women's intentions to perform certain speech acts. But why shouldn't we say that such failures happen because these audiences are, in some important sense, incompetent? That is, why shouldn't we say that pornography affects these audiences in the ways described by this story exactly because these audiences were warped to begin with? Many consumers of pornography offer a defense along these lines. They say something like the following: "I read porn, and I don't have any trouble understanding women. So the problem must not be with the porn, but with some of its readers." And if it turns out that pornography only contributes to already-incompetent audiences being unable to understand women, then surely the responsibility for those failures shouldn't rest with pornography.⁸

⁷ This is not the story that Langton tells: for that story, see Chapter 3. It is, however, Hornsby's story, or a close kin.

⁸ This objection is suggested by Daniel Jacobson, among others. See his "Freedom of Speech Acts? A Response to Langton," *Philosophy and Public Affairs* 24 (1995): 78.

According to this objection, then, in order to show that pornography is responsible for women's silencing, we must show not only that it renders audiences unable to recognize women's communicative intentions, but further, that it renders even *competent* audiences unable to do so. Only then can we conclude that the responsibility for this silencing can be traced to the pornographers, or, in fact, to any party other than the audiences themselves.

Let me emphasize that last point. Suppose we think that women *are* systematically silenced, but that *pornography* isn't responsible, or at least, isn't solely responsible, for that silencing. So, for instance, we might think that depictions of women on television or in popular film are equally responsible for this silencing. To establish any such claim, we still need to show, not just that these sources render audiences unable to understand women, but that they render even competent audiences unable to do so. So, the objection I am considering applies just as much to attempts to attribute responsibility for women's silencing to sources other than pornography, in fact, to attempts to attribute that responsibility to *anyone* but the audiences involved.

What we need, then, is a notion of audience competence that goes beyond mere linguistic competence.⁹ In the remainder of this chapter, I shall sketch how such an account might go. I want to make clear here that I shall *not* be arguing for the conclusion that pornography *in particular* interferes with the ability of competent audiences to understand women. Before we can assess the truth of that claim, we need to have answers to certain prior questions, such as:

- (i) What counts as a competent audience?
- (ii) What do we need to know about a particular speech situation – that is, about the parties present as well as about the socio-cultural context in which that situation arises – in order to make a judgement about what a competent audience would do in that situation?

These questions will be the focus of the rest of this chapter. The further question, regarding whether pornography, or for that matter, any other source, produces and supports beliefs that

⁹ There is another possible response to this objection: instead of arguing that pornography prevents *competent* audiences from understanding women, we could argue that it renders audiences *incompetent*. I shall not pursue this second option here. However, I do think it worth pointing out that pursuing that option would still require an account of audience competence; so, much of what I do in this chapter is just as relevant to that second option as to the first.

prevent competent audiences from understanding women, will not be settled here. However, we shall see later that an answer to the second question does help us get clearer about what we need to know about pornography, and other sources of beliefs, in order to settle the further question.

III. RULES AND ASSUMPTIONS

I want to approach the question of audience competence by making some general remarks about how to think about communication. To begin with, I want to think of communication – or, even more broadly, of conversation – as a practice. As such, it is defined by certain characteristic goals or ends, and certain rules. We engage in the practice because we find the characteristic ends valuable in some sense, and because we expect that the rules of the practice will guide our actions in ways that are generally conducive to achieving those ends.

In order to think about conversation in this way, something needs to be said about what its characteristic ends might be. Certainly, exchange of information is one such end: it seems incontestable that one of the principal reasons we engage in conversation, and that we value the practice, is precisely that it facilitates information exchange. But it seems equally clear that we just as often engage in conversation for other reasons, including self-expression, political expression, and to establish rapport with others, to name but a few. For our purposes, the details of this list aren't important; all we need to keep in mind is that conversation does have a variety of characteristic ends.

The rules of conversation, like the rules of any other practice, enable participants in the practice to attain the characteristic ends. I want to distinguish between two different kinds of rules: the context-independent ones and the context-specific ones. A rule of conversation is *context-independent* if it governs conversation in all contexts, and it is *context-specific* if it governs conversation in some contexts but not others. So, for instance, the Gricean conversational maxims

are supposed to be context-independent rules of conversation.¹⁰ By contrast, as we shall see in a later section, rules of etiquette give rise to highly context-specific rules for interpretation.

One final bit of background: at least some of the rules of any practice will be grounded in certain underlying assumptions. These may be assumptions about the participants in the practice, or about the characteristic ends of the practice, or even more generally, simply assumptions about how things are. These assumptions make it the case that certain rules are more appropriate than other rules, for the purpose of attaining the characteristic ends of the practice. So again, if we look at Grice's derivation of his conversational maxims, we will note that he takes conversation to be a rational, purposive activity. That is, in my sense, an *assumption* that grounds the maxims themselves. Note that some of the assumptions that in fact ground the rules of conversation may be false, but they certainly need not all be.

Let me now offer a quick preview of what's coming up. In the next two sections, I shall consider in some detail a pair of cases that are examples of silencing in my sense. In each case, part of the explanation for why the silencing takes place is that the audience there relies on certain context-specific rules to interpret the speaker. I shall suggest that, to decide the question about audience-competence, we need to know more about these context-specific rules. In particular, we need to know whether it is *reasonable* for the audience to rely on these context-specific rules; this, in turn, depends on whether the rules themselves have certain characteristics, and not others. In the next two sections, I shall describe what some of these characteristics might be. Then, I shall return to the example with which I began this discussion – the example from *Pride and Prejudice* – and explain what we need to know about the rules that come into play there to determine whether Mr. Collins behaved competently.

¹⁰ Grice introduces these conversational maxims in "Logic and Conversation," in his *Studies in the Way of Words* (Cambridge, MA: Harvard University Press, 1989): 22-40.

IV. RULES OF THE THEATER

The first case I will discuss is one that is mentioned by Donald Davidson. Here is the case: in a theatrical production, an actress is acting out a scene in which there is supposed to be a fire. Following the script, she yells, "Fire! I mean it! Look at the smoke!" In the meantime, a real fire breaks out at the back of the theater. Realizing this, the actress attempts to warn the audience by shouting "Fire!" The audience doesn't respond.¹¹

Clearly, this is a case of silencing in my sense. The speaker tries to get her audience to recognize that she is trying to *tell* them something: in particular, she is trying to tell them that a (real) fire has broken out in the theater. Thus, she has a communicative intention towards her audience, but the latter fail to satisfy that intention. In fact, the audience fails not only to recognize *what* the speaker is trying to tell them, but even *that* she is trying to convey anything at all. This is because they take the speaker to be following the script of the play, and as such, to be speaking in the voice of her character, rather than in her own voice. She is assumed to be acting out a certain role, rather than to be attempting to express her own thoughts and desires.

I suggested in the previous section that certain context-specific rules contribute to the silencing of the speaker in this example. What rules might these be? Well, it seems that something like the following rule must play a role:

When an actress standing on stage says something in the course of a theatrical performance, *do not* regard her words as evidence of her intention to communicate something on her own behalf.

This rule, or something very much like it, interferes with the audience's ability to identify the actress's warning as such. So the following seems to be true: *had* this rule not been in effect, the misunderstanding described in this example would not have taken place.

Suppose we grant this story about what goes wrong in this example. Ultimately, we want to know whether the audience in this example performs competently. I've already suggested that

¹¹ Donald Davidson, "Communication and Convention," in his *Inquiries into Truth and Interpretation* (Oxford: Clarendon Press, 1984): 269. I have modified the example slightly. Langton also discusses this example. See Langton, "Speech Acts and Unspeakable Acts," p. 315.

the answer to this question depends in part on the nature of the rules in effect in the example, and on how those rules enter into audiences' attempts to interpret speakers. In the remainder of this section, I shall identify three characteristics of the rule mentioned above that are relevant to deciding the question about audience competence. Why, and in what manner, these characteristics are relevant will, I think, begin to emerge along the way.

A. Role-Based Interference

As mentioned already, the theatrical rule that comes into play in the current example contributes to the audience's failure to recognize that the speaker is attempting to communicate anything at all. The first thing to note about the failure here is this: had the speaker attempted to communicate something other than what she did try to communicate, the results would have been precisely the same. That is to say, the *content* of what she utters is not particularly relevant to explaining why the failure takes place; rather, that is fully explained once we note that the speaker occupies a particular social role, namely, that of an actress engaged in a theatrical performance. To mark this distinction, I shall say that, in this example, theatrical rules interfere with the actress's ability to make herself understood in a largely *role-based* way.

Theatrical rules are not the only ones that interfere with communication in a role-based way. Rules to the effect that certain individuals should not be regarded as having the mental capacities of the average adult human can also have the same consequences. To take a somewhat silly example, consider the plight of the parrot: no matter what it says, its words will not be taken as evidence for its having communicative intentions, for parrot behavior is governed by something like the following rule:

When a parrot utters words, *do* regard those utterances as mimicry, rather than as attempts on the parrot's part to communicate its own beliefs and desires.

Presumably, this rule is grounded in an assumption to the effect that parrots do not have mental capacities of sufficient complexity to form the relevant communicative intentions. The same might be said about very young children: even if they succeed in uttering words of the relevant language,

their utterances may be taken as attempts to reproduce the noises they hear, rather than as evidence of their communicative intentions.

Of course, the rules that apply to young children are importantly different from the ones that apply to parrots, in that the latter are far more *robust* than the former: whereas there is almost nothing that the parrot can do that will be taken as evidence of its having a communicative intention, the same is not true of the child. Robustness is a feature of certain rules that is very relevant to the question about audience competence; let me turn to that next.

B. Robustness

Consider a context in which a particular rule is assumed to be in effect by members of some group. I shall say that that rule is *robust* for that group in that context if it would take a great deal of effort and evidence to get the members of that group to recognize that someone in that context intends or desires to opt out of following that rule. Strictly speaking, robustness is a comparative standard, rather than an absolute one: a rule may be said to be more robust for one group rather than another, or one rule may be more robust for the same group than a second, or the same rule may be more robust for the same group at one time than at another.

To illustrate this notion of robustness, let us compare the beginning and middle of a theatrical performance. It seems to me plausible that at the beginning of a theatrical performance, theatrical rules like the one we are considering are *less* robust than in the middle of one. As the performance goes on, the audience is pulled more and more into the ideal/fantasy world created by the theatrical work: as that happens, it may become increasingly difficult for a performer who wishes to have the theatrical rules suspended with respect to her own utterances to achieve this aim.¹² If this is right, then the actress in our current example may be much more likely to get her audience to recognize her warning at the beginning of the performance, than towards its end.

¹² It may be that at any point in a given performance, certain utterances are jarring enough to successfully convey to the audience the performer's desire to have the theatrical rules suspended. However, my example succeeds if the range of utterances that would fail to convey this increases as the performance continues.

C. Scope

A third feature of theatrical rules to which I want to draw attention is their scope. As I shall understand it, scope is a rather heterogeneous notion. The *scope* of a rule is determined by several factors, including all of the following: how long the rule tends to be in effect, and in what range of contexts; what kind of indicators are available for judging whether the rule *is* in effect, and how reliable those indicators are; how much of an agent's behavior is governed by the rule when it is in effect; and, how widely the rule is accepted in the relevant community. Like robustness, scope is also a comparative standard: one rule may be in effect for longer periods or apply to more of our activities than another; one rule may be effective in a larger variety of contexts than another; and so on. Clearly, the scope of any particular rule can be quite limited along some of these dimensions, and not so limited along others.

The scope of the theatrical rule relevant to the current example is, I think, relatively restricted and well-defined, at least along the first two dimensions of scope mentioned above. First, the rule only applies under rather special circumstances, that is, during theatrical performances: as such, the duration and location of its application are importantly circumscribed. Moreover, it seems to me an interesting fact about theatrical performances that, in general, it is not that hard to figure out when someone intends to be putting on such a performance, for there are usually fairly reliable indicators that an audience can use to make this decision. These indicators – which may be explicit, as in the case of an announcement to the effect that the theatrical performance is about to start, or implicit, as in the case of the lights in the auditorium being dimmed – help demarcate the interval during which the rule applies. This is not to say that there are no cases in which it is difficult to figure out whether such a performance is being offered; nevertheless, it seems to me that the hard cases are relatively rare.

In this respect, theatrical rules seem importantly different from rules that govern sexual contexts. Rules of the latter kind certainly come into play in overtly sexual situations, that is, situations which are recognized to be sexual by all the parties involved. But it is much easier, I

think, for there to be reasonable disagreement about whether a particular context is a sexual one than about whether it is a theatrical one: there are fewer reliable indicators, so that it is quite possible for one of the persons involved to not be aware that the other regards the situation as such.

V. RULES OF ETIQUETTE

Let us move now to a second example of communicative failure brought about by an audience's reliance on context-specific rules. At a dinner party, the host presses a guest to help herself to more food. The guest is quite full, and doesn't want any more. So she says, quite sincerely, "Oh, no, I couldn't eat another bite." The host, however, thinks that the guest is simply being polite, not wanting to appear too greedy; he supposes that guests *always* say something similar when offered more food. As a result, he disregards her protests, and continues to press food on her, until the guest finally feels that she must give in.

Here again we have a speaker being unable to make her intentions clear to her audience. As before, she tries to get him to recognize that she wants him to produce a particular belief: in this case, it is a belief to the effect that she doesn't want any more food. Her host hears her words, but takes her to be saying the sorts of things that dinner guests usually say on such occasions: that is, he takes her to be attempting to be a good guest, and as such, to be playing along with the rules that determine what it is to be a good guest in the relevant community.

To fix ideas, let's say that the rule in question is this:

Do regard guests at dinner parties as attempting to not appear too greedy, in particular, as trying to moderate their intake of the food and drink offered by the host.

This rule seems to contribute to the communicative failure here at least in the sense that it makes the following counterfactual true: *had* the rule not been in place, this misunderstanding would not have taken place.

Once again, let's grant that this account of what goes wrong in this example is correct. As I did with theater example, I want to identify some characteristics of the current example that will be relevant to answering the question about audience competence.

D. Content-Based Interference

In discussing the theater example, I noted that the *content* of the speaker's utterance was not particularly relevant to explaining why that failure took place: had the speaker – that is, the actress – tried to communicate something other than the fact that a fire had broken out in the theater, the audience might well have been just as uncomprehending. Rather, the failure in that example could be explained by noting that the speaker occupied a particular social role, namely, that of an actress engaged in a theatrical performance. So, I said that the rule that interfered with the speaker's ability to communicate in that example did so in a largely *role-based* way.

The current example is importantly different. The speaker here – the guest at the dinner party – could convey any number of things perfectly successfully to her host in this context: if, for instance, she happened to comment on how sunny the day had been, her host would not fail to understand that she meant that the day had been sunny. The rule that gets in the way in this example applies only to utterances that can be construed as attempts on the speaker's part to not appear too greedy: it is precisely because her refusal of the host's offer is seen as such an attempt that she is unable to communicate it. To put the point somewhat metaphorically, she is denied only certain moves in the conversational game, whereas the actress was denied all.

To explain the failure in the current example, we need to appeal not only to *who* the speaker is – i.e., what social role she occupies – but also to *what* she is trying to say. That is, the explanation for this failure has to make reference both to the fact that she is a guest at a dinner party, *and* to the fact that she is trying to refuse an offer of food. Thus, the rule of etiquette that interferes with the speaker's ability to communicate here does so in both a *content-based* way as well as a *role-based* way.

We can think about role-based interference and content-based interference as two ends of a spectrum along which cases of communicative failure may be arranged. At the role-based end are

the failures that can be explained simply by making reference to the social roles the speaker occupies at the time of the utterance; at the content-based end are the failures that can be explained simply by making reference to the content of the speaker's utterance. The failure in the theater example lay somewhere close to the role-based end, while the failure in the current example – the dinner party example – lies somewhere in between the two ends.

E. Accessibility

A striking feature of some rules, including rules of etiquette, is what I shall call their *accessibility*: a rule is highly accessible for a particular group in a given context if members of that group tend to apply the rule automatically and reflexively in that context, without conscious reflection on its appropriateness or usefulness. Some rules may generally be more accessible than others; and some may be more accessible in certain contexts than in other contexts.

One reason to suppose that rules of etiquette are highly accessible, at least for certain groups, is this: many communities try to inculcate these rules in their members from a very early age. This is not to deny that there is much variation across communities both with respect to the contents of these rules and with respect to the extent to which these rules are emphasized in the upbringing of children. However, where the teaching of these rules *does* constitute a significant part of the early education of children, that may be part of the explanation for their coming to be used in a less reflective manner than rules that are learned at later stages of development.

This notion of accessibility is related to the concept of robustness that I mentioned earlier: very roughly, accessibility has to do with how easy it is to begin to apply a rule, whereas robustness has to do with how easy it is to *continue* to do so, once the rule has been applied initially. It may be that, in general, accessibility and robustness go hand in hand, that is, that rules that are highly accessible are also fairly robust, and conversely.

F. *Arbitrariness*

Do we have any good reason to abide by rules of etiquette? If what I said above is correct, that is, if rules of etiquette are often inculcated in us from a very early age, it may be that we apply them unreflectively, but that, of course, doesn't settle the question of whether we have good reason to do so. Here's a suggestion: perhaps having in place rules of etiquette promotes social cohesiveness by making it possible for members of a community to express certain attitudes towards each other, including, for instance, such favorable attitudes as respect and gratitude. The very fact of an agent's abiding by the relevant rules, whatever they may be, can be taken as an indication of his willingness to cooperate and an expression of respect for others in his community. On this view, then, we do have reason to abide by the rules of etiquette, insofar as we have reason to promote social cohesiveness in the manner described above.

If this hypothesis about the primary benefit of rules of etiquette is correct, then in order to realize that benefit, we need to have in place rules governing a range of social interactions, including, for instance, dinner parties. But notice that what is needed is some set of rules or other: the purpose served by these rules could just as well be served by a number of alternative sets of rules. In this sense, the rules of etiquette are *arbitrary*. Further, recognizing the arbitrariness of these rules need not make trouble for anyone's reasons for abiding by them: if an agent's best reason for abiding by such a rule is that doing so tends to promote social cohesiveness, it won't make any difference that the rules are arbitrary in this sense. So not only are rules of etiquette arbitrary, but they are also often *perceived* as such, and this perception doesn't undermine anyone's reasons for adhering to them.

By contrast, it seems to me that at least some of the rules that govern sexual contexts are *not* thought to be arbitrary by those who abide by them; further, recognizing the arbitrariness of these rules might very well undermine a person's reasons for abiding by them. This is because these rules are strongly grounded in certain assumptions about what women, and men, are like: so, for instance, the rule that women shouldn't be taken to say what they really mean in sexual contexts may be grounded in the assumption that women are by nature deceitful, especially when it comes to

sexual matters. But this means that not just any rule would do: part of the explanation for why this rule seems appropriate is precisely that it is taken to be grounded in how women are. As a result, this rule may seem “natural” or “right” in a way that rules of etiquette don’t.

This is not to suggest that rules of etiquette are not also grounded in assumptions about how people are, or that just *any* set of rules would serve equally well. My point is only that the grounding relation seems, roughly speaking, *tighter* for sexual rules than for rules of etiquette, in the following sense: whereas the underlying assumptions make it the case that a number of alternative sets of rules of etiquette would serve equally well, the underlying assumptions narrow the possibilities down much further for sexual rules. As a result, many sexual rules seem much less arbitrary than rules of etiquette.

VI. WHAT IS REQUIRED OF A COMPETENT AUDIENCE?

Let us return now to the objection we considered towards the beginning of the chapter. According to that objection, in order to show that pornography is responsible for women’s silencing, we must show not only that it renders audiences unable to recognize women’s communicative intentions, but further, that it renders even *competent* audiences unable to do so. Suppose we grant this. Clearly, this is a problem for the Hornsby-Langton project only if we think that there is some reason to suppose that the audiences that misunderstand women are indeed incompetent. Critics of Hornsby and Langton have supposed that this objection *does* constitute an important difficulty for their argument; so they must think that there *is* some reason to suppose that the relevant audiences are incompetent. What might that reason be?

Perhaps the reason is something like this. Recall the passage from *Pride and Prejudice* with which I began this chapter: that was the exchange between Miss Bennet and Mr. Collins in which Miss Bennet attempts to refuse Mr. Collins’ offer of marriage. In that exchange, Miss Bennet says to Mr. Collins, “I am very sensible of the honour of your proposals, but it is impossible for me to do otherwise than decline them.” In so speaking, Miss Bennet means precisely what she says: there is little she could do to make her meaning more explicit. Nevertheless, Mr. Collins misunderstands

her; moreover, it may be argued that he does so because he invokes a rule for interpreting women that is inappropriate in that context. Now, suppose we think that a competent audience is one that invokes rules only where they are appropriate. Putting all of this together, it seems to follow that Mr. Collins is incompetent *qua* audience. And once we have concluded that, it is hard to see why the responsibility for the silencing should lie anywhere but on his shoulders.

But, *contra* this argument, it isn't at all clear why we should agree that Mr. Collins relies on a rule that is inappropriate in this context; in fact, it isn't even clear that we should say he *invokes* the rule in question, in the sense that that implies that he had some choice in the matter. At the very least, more needs to be said about the particular speech context, and about what makes the application of rules appropriate in a given context, to establish either claim. To see this, suppose that we fill in the details of the context – in particular, the details of the socio-cultural context – in which Mr. Collins and Miss Bennet are located in the following way. Suppose that it is a context that is governed by the following rule:

Do take women to be trying not to appear too forward.

Further, suppose also that in this context, this rule is (i) highly accessible, (ii) extremely robust, and (iii) perceived to be non-arbitrary. (We might suppose further that this rule is grounded in certain assumptions about the delicacy and modesty of “the female character.”) To say that the rule is highly accessible is just to say that the audience, Mr. Collins, follows it without any reflection, that he applies it automatically and reflexively. To say that it is extremely robust is to say that, once it has been applied, it would take a lot of effort, on Miss Bennet's part, to get Mr. Collins to recognize that she wishes to opt out of the rule. To say that it is perceived to be non-arbitrary is to say that it seems, to Mr. Collins, “natural,” or “obvious,” or “just how things are.”

In light of this, consider what it would mean to say that Mr. Collins behaves incompetently *qua* audience. That is, of course, a normative judgment: it implies that Mr. Collins should not have done what he did. In particular, it suggests that Mr. Collins should not have applied the rule in question, a rule which he is not conscious of having applied, and to which he sees no alternative.

In such circumstances, to say that Mr. Collins should have behaved differently than he did is to impose on him a heavy burden indeed.

What I am suggesting here is roughly this: an audience performs *competently* in a particular speech context to the extent to which:

(i) They (the audience) abide by the rules that are in effect in that context;

and,

(ii) It is reasonable for that audience to abide by those rules.

Whether it is reasonable for the audience to abide by the rules in effect in a given context depends, in part, on how difficult it would be for that audience to do otherwise; and how difficult it would be for that audience to do otherwise depends on whether, and to what extent, those rules display the characteristics mentioned earlier (in §§IV-V). In the example we have been considering, if the socio-cultural context is as I have hypothesized – if, that is, the relevant rule is highly accessible, extremely robust, and perceived to be non-arbitrary – then it would be very difficult for Mr. Collins to not rely on it in attempting to interpret Miss Bennet. This, I suggest, gives us reason to judge that Mr. Collins’ performance as audience is, in fact, competent.

VII. CONCLUSION

Thus far, I have suggested that an audience who relies on a context-specific rule to interpret a speaker need not be incompetent *qua* audience, even if that audience’s reliance on that rule is part of the explanation for why he fails to understand what the speaker is trying to communicate to him. If, for instance, the rule in question is highly accessible, very robust, has broad scope, and is perceived to be non-arbitrary, the audience’s reliance on the rule casts no doubt at all on his competence.

Let us recall briefly the date rape example that I mentioned earlier in this chapter: that was the example in which the woman says “No” to a man’s sexual overtures, but he doesn’t understand her refusal. It has been suggested that rapes, especially acquaintance rapes, are the results of highly scripted interactions: the feminist theorist Sharon Marcus, for instance, writes that “a rapist follows

a social script.”¹³ One way of interpreting this claim, at least as it pertains to the context of the date rape example, is this: such contexts are governed by rules that are sufficiently accessible and robust, perhaps also role-based, and apparently non-arbitrary, to make it very difficult for the participants to depart from whatever is expected of them.

By way of concluding, let me briefly take stock. In this chapter, I have sketched how an account of audience competence might go. More specifically, I have described some of the factors that need to be considered in determining what a competent audience would do in a given speech situation. This account is by no means complete; but what I *have* said is enough, I think, to help us get a better grip on several aspects of the phenomenon of silencing with which I am concerned.

First of all, my account of audience competence helps us see how it is possible for a speaker to be silenced even when her audience performs competently *qua* audience. I have already discussed this point in some detail, so I won't belabor it further here. But at the same time, this account also helps us see that there is an important sense in which speakers who are silenced may be *unable* to make themselves understood: that is, it's not just that these speakers are, as a matter of fact, misunderstood, but more strongly, it may be that they also *cannot* make themselves understood.

Let us also recall that one of the original motivations for being interested in silencing in the first place was the thought that this phenomenon might systematically disadvantage women. We are now in a position to distinguish two different senses in which this claim might be true. First, to say that silencing systematically disadvantages women might just be to say that women are more likely to be silenced than members of other groups, and that being silenced always constitutes a disadvantage. Taken this way, the claim about systematic disadvantage becomes a claim about frequency. This may very well be true, but it doesn't seem to me by itself very interesting.

There is, however, a different way to understand the claim. To say that silencing systematically disadvantages women might be to say that the socio-cultural context in which we

¹³ Sharon Marcus, "Fighting Bodies, Fighting Words: A Theory and Politics of Rape Prevention," in *Feminists Theorize the Political*, edited by Judith Butler and Joan Scott (New York: Routledge, 1992): 390.

live is such that there are in effect a number of context-specific rules that particularly interfere with women's abilities to make themselves understood. That is, it may be that women are not (just) more likely to be silenced, but also that the rules of conversation are such that it is more difficult for *them* to overcome this silencing than it is for members of other groups to do so. Taken this way, the claim about systematic disadvantage becomes a claim about the prevailing social conditions, and the ways in which those conditions seriously constrain certain speakers. It implies that many interactions in which women are involved, especially those in sexual contexts, are highly scripted, in the sense of being very rule-bound. And if this is right, then the phenomenon of silencing is both, I think, philosophically interesting, and also something about which we should be very concerned.

Chapter 3

The Speech Act Model of Pornography

INTRODUCTION

Pornography, according to Catharine MacKinnon, “is the graphic sexually explicit subordination of women through pictures or words.”¹ In thus describing pornography, MacKinnon makes some highly controversial claims. It has often been said that pornography *depicts* women’s subordination, and even *causes* it. MacKinnon, however, goes further: she suggests, in addition, that pornography is itself a form of subordination, that it *constitutes* women’s subordination. Moreover, she also suggests that pornography is *efficacious*: it doesn’t just aim at the subordination of women, but succeeds in achieving that aim.²

MacKinnon’s characterization of pornography gives rise to a cluster of questions about the nature of subordination, and about the connection between representation and subordination. What *is* subordination? How must we understand the notion in order to make sense of the claim that pornography, or, for that matter, any other form of representation, can *constitute* subordination? Can just any form of representation subordinate? If so, which forms do, as a matter of fact, subordinate? Further, what sort of social power or authority must a form of representation have in order to subordinate? And finally, how do some forms of representation come to have the right kind of power or authority, whatever that might be?

MacKinnon’s work has provoked, to put it mildly, a broad range of reactions among her readers. Some have accused her of conceptual confusion, on the grounds that it is a category mistake to regard pornography as the subordination of women, as opposed to the depiction of such

¹ Catharine MacKinnon, ‘Francis Biddle’s Sister,’ in *Feminism Unmodified* (Cambridge, MA: Harvard University Press, 1987): 176. The full definition that MacKinnon offers is this: pornography is “the graphic sexually explicit subordination of women in pictures or words that also includes women dehumanized as sexual objects, things or commodities; enjoying pain or humiliation or rape; being tied up, cut up, mutilated, bruised, or physically hurt; in postures of sexual submission or servility or display; reduced to body parts, penetrated by objects or animals, or presented in scenarios of degradation, injury, torture; shown as filthy or inferior; bleeding, bruised or hurt in a context which makes these conditions sexual.”

² This last point follows from the fact that *subordination* is a success term.

subordination; others have tried to find ways of conceptualizing the connection between representation and subordination in order to help defend MacKinnon against such charges. In the latter category, the work of Rae Langton is especially noteworthy: in a series of recent papers, Langton has argued that speech act theory can provide us with the resources to make sense of MacKinnon's claim that pornography constitutes the subordination of women.³

I shall dub Langton's use of speech act theory to describe the manner in which pornography constructs social reality – especially the social reality of women – *the speech act model of pornography*. My main aim, in this chapter, is to show that this model is misguided. The speech act model of pornography offers us a way of thinking about subordination that provides answers, at least in part, to several of the questions in the cluster described above. In particular, it explains how pornography *can* constitute the subordination of women; and it describes certain conditions that typically have to obtain in order for it to be the case that pornography *does* subordinate in a given social context. Unfortunately, the conditions that the speech act model identifies are not the right ones: whether those conditions are satisfied is in fact irrelevant – I shall argue – to whether pornography subordinates in a particular context. But this failure is illuminating, for at least two reasons. First, since the speech act model picks out the conditions it does because it is committed to a particular view of subordination, the failure helps us diagnose why that model goes wrong: in particular, it helps us see that this view of subordination contributes crucially to this failure. Second, this diagnosis, in turn, points us in the direction of a different view of subordination, and therefore, a different account of how pornography constructs social reality.

The chapter proceeds as follows. In the next section, I briefly introduce some pertinent aspects of speech act theory; then, I sketch Langton's efforts to make sense of MacKinnon's characterization of pornography, which I quoted at the very beginning of this chapter. The speech

³ Here is a partial listing of Langton's papers on this and closely related topics: Rae Langton, "Speech Acts and Unspeakable Acts," *Philosophy and Public Affairs* 22 (1993): 293-330; Jennifer Hornsby and Rae Langton, "Free Speech and Illocution," *Legal Theory* 4 (1998): 21-37; Rae Langton, "Subordination, Silence, and Pornography's Authority," in *Censorship and Silencing: Practices of Cultural Regulation*, edited by Robert C. Post (Los Angeles: Getty Research Institute for the History of Art and the Humanities, 1998): 261-283; Rae Langton and Caroline West, "Scorekeeping in a Pornographic Language Game," *Australasian Journal of Philosophy* 77 (1999): 303-319.

act model of pornography will begin to emerge in this discussion; but I attempt to make the commitments of that model clearer in the following section, Section II, by extracting from the previous discussion five of what I take to be the central assumptions of that model.

In Section III, I consider an argument, offered by Leslie Green, that purports to prove MacKinnon wrong.⁴ Green claims that, even if it makes sense to say that pornography *can* constitute subordination, it is not plausible to suppose that it *does* subordinate in our society. I shall present this argument in some detail, because I think that it is worth looking at the considerations that Green cites in support of his position: I argue, *contra* Green, that these considerations are in fact irrelevant to the question of whether pornography subordinates. However, as I go on to show in Section IV, these considerations do become relevant if we accept the speech act model, and the approach to subordination that underpins it. Thus, the speech act model, and the underpinning approach to subordination, lead us astray. I conclude the chapter with a very brief sketch of an alternate approach to subordination, towards which we are directed by the failures of the first approach.

The argument of this chapter is largely critical: as I've already mentioned, my main aim is to raise difficulties for the speech act model. Much of my efforts here will be directed towards trying to understand how that model is supposed to work, and to questioning some of the underlying commitments of the model. However, nothing I say in this chapter will rule out the possibility that the speech act model, or a close kin, might, at the end of the day, turn out to be the best approach to the question of whether pornography subordinates. Still, if there are reasons to worry about the model, and if, further, there are viable alternate approaches to thinking about subordination, then, at the very least, an argument is required to establish the superiority of the speech act model. This chapter may be viewed as an attempt to motivate the need for such an argument.

⁴ This argument is offered in Green's "Pornographizing, Subordinating, and Silencing," in *Censorship and Silencing: Practices of Cultural Regulation*, edited by Robert C. Post (Los Angeles: Getty Research Institute for the History of Art and the Humanities, 1998): 285-311.

I. THE SUBORDINATING THESIS

As we've already seen, MacKinnon's characterization of pornography entails that the following must be true:

Pornography subordinates women.

Let us call this *the Subordinating Thesis*. As stated here, the Subordinating Thesis is ambiguous between two readings. There is, first, the *Causal Version* of this thesis, which claims that,

Pornography *causes* the subordination of women.

And then there is also the *Constitutive Version* of this thesis, which reads:

Pornography *constitutes* the subordination of women.

Langton, following MacKinnon, is primarily concerned to defend this second version of the thesis, the Constitutive Version, against charges of conceptual confusion. It is thus *not* her main aim to establish that either version of the Subordinating thesis is *true*, though she does make some gestures in this direction. Rather, Langton's chief purpose is to provide a theoretical framework that can help us understand what the Constitutive Version of this thesis *says*. She thinks that speech act theory can help with that project. Let us see how.

Speech act theory is particularly attractive for Langton's purposes because of its foundational insistence that speech is action, that in speaking words, we not only *say* things, but also *do* things. In his seminal work on this topic, J.L. Austin complained of the tendency among philosophers to focus on the contents of linguistic utterances, and their effects on audiences, at the expense of the actions constituted by those utterances. In the terminology introduced by Austin, this was just to say that philosophers tended to recognize *locutionary* acts and *perlocutionary* acts, but generally failed to notice the distinct category of *illocutionary* acts.

To illustrate this tripartite distinction, consider the following scenario. I say to you: "I'll bet you a bottle of wine that the United States will win the next World Cup." Knowing something about football, you come to expect a bottle of wine from me in 2006. In producing this utterance,

I do several things. First, and perhaps most obviously, I express a particular content, determined (roughly) by the conventional meanings of the words I utter: this is my locutionary act. Second, I *cause* you to come to expect a bottle of wine in 2006: this is my perlocutionary act. And finally, I *bet* you a bottle of wine: this is my illocutionary act.

Illocutionary acts are ones that speakers perform just in uttering the appropriate words in the appropriate contexts: as suggested already, the notion of illocution is intended to draw attention to the action constituted by the utterance itself, whereas the notion of *perlocution* is supposed to capture the further (causal) effects of the utterance. Examples of illocutionary acts abound: telling, warning, urging, promising, christening, marrying, and of course, betting are all illocutionary acts. *In* saying “Watch out for the boom,” a speaker warns; in saying “I’ll meet you at the Brattle,” she makes a promise; and in saying “I do”, she marries. Of course, in each case, the success of the intended illocutionary act depends on certain background conditions being satisfied: for instance, in the last case, it is necessary that the speaker be in the presence of an appropriate authority, such as a priest or a registrar. Austin dubbed these background conditions *felicity conditions*, because their satisfaction ensures that the relevant illocutionary act is *happy*; I shall have more to say about these conditions in the next section.

To the list of illocutionary acts I’ve already mentioned, Langton adds another: the illocutionary act of subordination. That is, Langton thinks that one of the things that a speaker can do by saying the right words in the right context is subordinate. By way of explaining this point, she asks us to consider an example. Suppose that, in South Africa under apartheid, the law prohibiting blacks from voting was enacted by legislators saying, “Blacks are not permitted to vote,” in the appropriate context. In speaking these words, these legislators did several things, performed several acts. First, they deprived blacks of a right, namely, the right to vote. Moreover, they ranked blacks as having inferior status, as compared to whites. And finally, they legitimated discrimination against blacks, for preventing blacks from voting – by, e.g., excluding them from polling booths – is precisely a form of discrimination. In (unfairly) ranking blacks as inferior, in

(unjustly) depriving them of rights and powers, and in legitimating discriminatory behavior towards them, the legislators, according to Langton, subordinated them.⁵

It is crucial, for Langton's purposes, that the legislators' utterance subordinated *illocutionarily*, and not (just) perlocutionarily, that this utterance *constituted* an act of subordination, and didn't (just) cause subordination. But how are we to make sense of this? Langton's idea is that utterances that subordinate illocutionarily do so by constituting norms that, in turn, help to construct social reality for the subordinated group: more specifically, these norms determine, first, the social status of the group; second, what rights and powers members of the group possess; and third, what counts as appropriate behavior towards members of the group. In the example we have been considering, the norms had legal backing: that is, they were constituted by enacting a law. But, as we shall see shortly, legislation isn't the only way of constituting the social norms necessary for illocutionary subordination.

Pornography, on Langton's view, is a further example of speech that subordinates illocutionarily. In fact, Langton thinks that the way in which pornography subordinates is largely analogous to the way in which the legislators' utterance – "Blacks are not permitted to vote" – subordinated in the previous example. Pornography, she thinks, constitutes norms for sexual behavior, norms to the effect that women are, by nature, submissive, or that they enjoy rape. These norms rank women as sexual objects, and so, as inferior to men; they interfere with women's abilities to refuse sex, and perhaps even deprive them of that ability altogether⁶; and they legitimate discriminatory behavior, especially in the form of sexual violence, against women. In constituting the norms for sexual behavior in this manner, pornography subordinates women.

⁵ It is important here that the ranking was unfair, and the deprivation of rights and powers unjust. As Langton points out, not all acts of ranking, legitimating, and depriving of rights and powers are acts of subordination: for instance, ranking an athlete as the best in her sport need not be an act of subordination. However, all instances of *unfairly* ranking, *unjustly* depriving of rights and powers, and legitimating *discriminatory* behavior might very well be acts of subordination.

⁶ That is to say, pornography *silences* women. See Chapters 1 and 2 for a discussion of this claim.

This, then, is Langton's effort to make sense of the Constitutive Version of the Subordinating Thesis: she thinks that we should read that thesis as claiming that pornography subordinates illocutionarily, by virtue of constituting norms for sexual behavior that rank women as inferior, deprive them of rights and powers, and legitimate discriminatory behavior against them.⁷ These are, of course, highly controversial claims; and more needs to be said about what counts as evidence in their support. However, the discussion thus far does suffice to provide some sense of what I earlier dubbed *the speech act model of pornography*, that is, the attempt to use speech act theory to understand how pornography helps construct social reality. Since my major aim in this chapter is to show that this model is deeply problematic, it will be useful, for my purposes, to distill from the preceding discussion some of the central assumptions on which the model is founded. Having these assumptions before us will help us get a better grip on how the model is supposed to work.

II. THE SPEECH ACT MODEL

In this section, I shall distinguish five of what I take to be the main elements of the speech act model of pornography. Each element is an assumption about pornography, or about the way in which it constructs social reality, to which this model is committed. None of these assumptions is incontrovertible: so, each is in need of philosophical defense. If one of these assumptions does prove to be unworkable, the speech act model of pornography would, at the very least, require serious revision; however – and this is important – it would *not* follow that pornography doesn't subordinate. I shall return to this point later.

First, and most obviously, the speech act model is committed to the view that pornography is a form of speech. This is a controversial assumption, but not one that I will question in this chapter. I do want to note, however, that this is an assumption that is shared by those who, with MacKinnon, wish to argue in favor of some regulation of pornography, *and* by those who oppose

⁷ Langton does not claim that this is the only way to make sense of the Constitutive Version of the Subordinating Thesis. Rather, her claim is simply that this is *one* way of interpreting that thesis that rescues it from worries about conceptual confusion.

any regulation whatsoever. In the latter case, this acceptance can be explained, in part, by the fact that this assumption is required by what is generally considered the most powerful argument against the regulation of pornography, namely, the argument from the right to free speech: if pornography isn't speech, it can't be supposed to be protected by the right to free speech. So, at least, in assuming that pornography is a form of speech, Langton can't be accused of begging any questions against her opponents.

Next, and even more importantly, the speech act model tells us that pornography subordinates *illocutionarily*. In so saying, this model treats subordination as an act, and more specifically, as an illocutionary act. But typically, where there is an act, there must be an agent; and where there is an illocutionary act, there must be a speaker. So, according to this model, subordination is an act, performed by an individual speaker. As such, it is a wrong done by an agent, or group of agents: we might say that subordination, understood this way, is “an individual wrong.”⁸

But this is not the only way to think about subordination. We might instead think of it as a wrong constituted by the arrangement of social institutions or practices: as such, it would be “a social/political wrong,” rather than an individual wrong. If we did understand subordination in this second way, it would seem that we would no longer regard it as a wrong done by an agent, or even a group of agents. Moreover, it's not clear whether we would still regard it as an act: after all, it is more than a little odd to speak of social practices *acting*. I shall have more to say about these two views of subordination in Section IV of this chapter; for now, it suffices for my purposes to point out just that the speech act model regards subordination as an act performed by an individual or group, and further, that this is not the only way to think about subordination.

This last element of the speech act model points us in the direction of the next two. If the speech act model holds that it is *acts* that subordinate, then, in the case of pornography, which are

⁸ Sally Haslanger, “Oppressions: Racial and Other” (DRAFT), p. 3. Haslanger distinguishes between agent oppression and structural or institutional oppression: she suggests that the former is an “individual wrong,” while the latter is a “social/political wrong.” Her distinction provides the basis for the two approaches to subordination that I distinguish here, though I don't think that the two distinctions line up exactly.

the subordinating acts? And further, if the speech act model holds that it is *speakers* who subordinate, then again, in the case of pornography, who are the subordinating speakers? The third element of the speech act model is the answer to the former question: though Langton is rarely explicit about this, the subordinating acts must be the acts of producing and distributing pornography. This, in turn, dictates the answer to the latter question, which gives us the fourth element of the speech act model: the subordinating speakers must be those who produce and distribute pornography.

Why should acts of producing and distributing pornography be the subordinating acts? In general, illocutionary acts are performed either in producing speech, or in making available already produced speech. For instance, consider the illocutionary act of directing someone towards some desired destination. One way to do this is to write down the relevant directions; another way of performing the same illocutionary act is to provide directions that have been printed from the internet. The first is an act of producing speech, while the second is an act of distributing speech. Most illocutionary acts may be performed in either of these ways, and there is no reason to suspect that the illocutionary act of subordination is an exception to this rule.

This brings us to the fifth, and final, element on this list. As already mentioned, every illocutionary act has felicity conditions, that is, conditions that must be satisfied in order for a performance of that act to be *happy*. Given that subordination is, on this view, an illocutionary act, it too must have felicity conditions. What might these conditions be?

Langton's discussion of the felicity conditions of subordination focuses on one condition that she takes to be particularly important. This condition, which I shall dub *the condition of authority*, makes the following stipulation: in producing an utterance, a speaker performs the illocutionary act of subordination *only if* he has the appropriate form of authority. That is to say, subordination is one of what Langton labels "authoritative illocutions," that is, an illocution that can *only* be successfully performed by speakers who are authoritative in the right way.⁹ What constitutes the

⁹ Langton, "Speech Acts and Unspeakable Acts," p. 311. Langton seems to think that some illocutions are authoritative illocutions in this sense, and others not. It is not at all clear to me that that is true.

appropriate form of authority will vary from one authoritative illocution to another. In the case of subordination, legislative authority – that is, the authority to enact legislation – is *one* of the appropriate forms: this was illustrated by Langton’s paradigmatic example of subordination, in which legislators in South Africa subordinated blacks by uttering the words “Blacks are not permitted to vote” in a context in which those words enacted a voting law. If the same words had been spoken by someone other than a legislator, the utterance would certainly not have enacted a law, and would probably not have constituted any social norms at all. This is not to suggest, of course, that enacting legislation is the *only* way to constitute social norms; however, it is certainly one way to do so.

If having legislative authority is not the only way to satisfy the condition of authority for subordination, what are the other ways? That is, what forms of authority enable speakers to successfully perform speech acts of subordination? Moreover, what, if anything, do these forms have in common? And finally, and most pertinently, do pornographers possess any of these forms of authority in our society?¹⁰ Langton thinks that this last question is at “the heart of the controversy” over whether pornography subordinates¹¹; however, she also takes it to be a largely empirical question, and as such, not one that can be settled “from the philosopher’s armchair.”¹²

Many of Langton’s critics have fastened on the issue of pornography’s authority as the best reason to reject the Constitutive Version of the Subordinating Thesis: they have suggested that it is quite implausible to suppose that pornographers *are* authoritative in the sense required. In the next section, I shall consider a critique, due to Leslie Green, that pursues this line of thought. As we shall see, Green looks at how authoritative illocutions work, and argues that pornography cannot be authoritative speech in the relevant sense. I shall suggest that Green is partly right: the question of authority does raise important difficulties for Langton, but *not*, as Green thinks, because it makes

¹⁰ In this chapter, I will use the term *pornographer* to refer to those who produce and to those who distribute pornography, but not to those who consume it.

¹¹ Langton, “Speech Acts and Unspeakable Acts,” p. 311.

¹² Langton, “Speech Acts and Unspeakable Acts,” p. 312.

trouble for the Subordinating Thesis *per se*. Instead, the question makes trouble for the speech act model of pornography; whether it *also* makes trouble for the Constitutive Version of the Subordinating Thesis depends on whether there is an alternate way to make sense of what that thesis says; and, as I shall try to show later, we have reason to believe that there is such an alternative.

III. PROBLEMS WITH THE SPEECH ACT MODEL

The topic of authority, and of social power more generally, is one that has merited extensive attention from social and political philosophers. Perhaps as a result, there is broad theoretical disagreement about how we should understand these notions. It is, of course, agreed that there is a variety of different manifestations of social power: these include the power of a sovereign over his subjects; the power of a teacher over her students; the power of a rapist over his victims; the power of the legal system over those in its jurisdiction; the power of advertising over its consumers; and so on.¹³ However, there is no such agreement on a general theory of social power, that is, a theory about what these various manifestations of social power have in common; in fact, there isn't even agreement on whether such a general theory is possible, or desirable. In addition, the question of the relationship between social power and authority, legitimate and otherwise, provides yet another point of contention.

In responding to Langton, Green offers an account of authority, that is, an account of what it is for one agent to have authority over another. It is a *non-reductive* account, in the sense that it presupposes a notion of social power, which is at least as difficult to understand as authority itself. Though I shall discuss this account in some detail, I shall *not* be interested in whether it succeeds as an account of authority as such: thus, for instance, I shall not try to discover whether there are cases of an agent's having authority over another that aren't captured by this account. Instead, I shall be interested primarily in whether the account can illuminate the way in which *speakers* must

¹³ This list is not meant to suggest that all forms of social power can be stated using this *power-over* locution.

be authoritative in order to successfully perform authoritative illocutions. As we shall see shortly, Green thinks it can.

Authority, on Green's view, is a form of "effective social power," one that differs from other forms in that "it works not through brute force or manipulation, but through the giving and accepting of reasons."¹⁴ More explicitly, Green's account takes the following form:

An agent *X* has authority over another agent *Y* with respect to *Z* *only if* *X*'s say-so gives *Y* a reason of either of the following kinds:

- (a) A reason to act with respect to matters relating to *Z*;
- (b) A reason to endorse what *A* says with respect to matters relating to *Z*.

In other words, having authority over another requires being in a position to change what the other has reason to do, what he has reason to believe, and, even more generally, what attitudes he has reason to adopt. Of course, an agent may have authority over another with respect to certain matters, and not with respect to others. For instance, a teacher has authority over her students with respect to school-related matters, but no further: the *scope* of the teacher's authority is thus limited. To accommodate this thought, Green takes authority to be a three-place relation, having the following general form: an agent *X* has authority over another agent *Y* with respect to *Z*, where *Z* specifies the scope of the authority.

How does one agent's utterance ever manage to give another agent a reason to act (or believe)? More specifically, how does a speaker manage to give her audience such a reason by performing an authoritative illocution? To see how this happens, let us consider a typical case. A parent tells her child, "You're not leaving the house until you've cleaned your room." In so saying, the parent makes public her intention to alter the child's permissions, that is, to alter what the child is permitted to do. Under certain circumstances, making public such an intention is sufficient to give the child reasons for action. Specifically, according to Green, the relevant circumstances are these: first, the parent and child must be situated in a social context in which it is generally

¹⁴ Green, "Pornographizing, Subordinating, and Silencing," p. 293.

accepted that parents' utterances set "binding standards of behavior"¹⁵ for their children, at least with respect to domestic matters; and second, the social context must also be such that these standards are enforced. Arguably, our social context satisfies these conditions: we do generally accept that parents set binding standards for their children, and further, we allow parents to enforce these standards, and in many cases, even help them do so. In light of this, our social context is one in which a parent's making public her intention to change her child's permissions is *sufficient* to give that child reasons to act: in the current example, it gives the child a reason to either clean his room or stay home.

This gives us, in brief outline, Green's account of authority, and his picture of how authoritative illocutions typically work. We are now in a position to return to the question with which we ended the previous section: in our society, do pornographers have the authority to successfully perform the speech act of subordination? Green thinks that there is serious reason to doubt that they do have this authority. More specifically, he opposes Langton's idea that pornography constitutes norms that rank women as inferior, deprive them of rights and powers, and legitimate discriminatory behavior against them: Green doesn't think that pornography has the authority to constitute norms at all. Thus, he writes:

While it is possible that some people do use pornography for normative guidance about sex, that is certainly not its standard use. As MacKinnon rightly says, pornography is mostly "masturbation material." Most consumers want their pornography to be arousing rather than didactic or even reassuring, and there is nothing in most pornographic imagery that corresponds to the orders, recommendations, verdicts, and other types of speech that characterize examples of speech act theory. It would be hopelessly naïve, for instance, to think that each image bears the message "Look, this how it is to be done; this is right and proper."¹⁶

¹⁵ Green, "Pornographizing, Subordinating, and Silencing," p. 294. To set "binding standards of behavior" for a particular group is, presumably, to constitute norms that govern the behavior of members of that group. As I use the terms, all standards of behavior are norms, but the converse isn't true: for instance, it may be a norm in a given context that women are, by nature, submissive; but this is not itself a standard of behavior, though of course, it may be incompatible with certain standards. Norms mark correct ways of viewing the world, as well as appropriate ways of behaving: as such, they govern belief (and other attitudes), as well as action.

¹⁶ Green, "Pornographizing, Subordinating, and Silencing," p. 296.

Though this passage is admittedly opaque, we can make sense of Green's reasoning by keeping in mind the picture of authoritative illocution with which he is working, and which I sketched above. Let us consider how that picture is relevant here.

The quoted passage seems to contain two main claims. First, Green tells us that consumers don't turn to pornography for instruction in sexual matters, or for guidance about what constitutes appropriate behavior in sexual contexts: their interest in pornography is exhausted by its use for sexual stimulation. From this, Green infers, I think, that the following must be true:

- (1) It is *not* generally accepted among its consumers that pornography constitutes norms for them with respect to sexual matters.

If pornography is regarded as merely "masturbation material," then it seems to follow that it is not considered to be a source of norms.

Further, and more curiously, Green also tells us that there is nothing in most pornography that *directs* consumers to use it for guidance regarding sexual matters. Thus, pornographic texts and images aren't accompanied by messages claiming that they represent how women really are, or what constitutes correct behavior in sexual contexts. The absence of such messages is significant, to Green, because it speaks to the question of what pornographers give their consumers reason to do, or to believe. More specifically, the absence of such messages leads Green to draw the following conclusion:

- (2) Pornographers don't give their customers reason to believe that they *intend* to constitute norms for them.

In this, pornography differs from "the orders, recommendations, verdicts, and other types of speech that characterize examples of speech act theory," in which the speakers do make public their intentions to perform the act in question.

Putting this together: as we saw earlier, Green has in mind a particular picture of how authoritative illocutions constitute norms for a particular group. On his view, an authoritative illocution constitutes norms by giving members of the group in question reasons for action or belief; and it does, typically, by making public the speaker's intention to perform the act in question, in a context in which it is generally accepted that her utterances constitute norms, and in which those

norms are enforced. If (1) and (2) are correct, then at least two of these conditions aren't satisfied in the case of pornography: it is not generally accepted that pornographic utterances constitute norms; and pornographers don't make public their intentions to do so. Then, given the picture of authoritative illocutions in the background, it seems to follow that pornographers' utterances don't give their consumers reasons for action or belief in the manner that authoritative illocutions typically do. Therefore, these utterances don't constitute norms for the consumers; consequently, pornographers don't have the authority to subordinate.

This, then, is Green's reply to Langton and the Constitutive Version of the Subordinating Thesis. The reply raises certain worries: I shall mention three in the following sections, in increasing order of importance.

A. Pornography vs. Other Forms of Representation

To begin: it appears that Green's argument can be modified to show, regarding nearly *any* form of representation, that it doesn't subordinate: besides pornography, this also includes advertising, television shows, and films. Take, for instance, the case of advertising: it is often suggested that images in advertising constitute norms for body image, especially for women. These include, for instance, norms to the effect that thin women are happier, or that overweight women are lazy.¹⁷ Moreover, it has also been suggested that these images affect even those who "know better" than to be affected in this manner.¹⁸ Arguably, if advertising does constitute norms for body image in this way, it subordinates at least certain groups of women, for instance, women who are chronically overweight: these norms (unfairly) rank such women as inferior, and legitimate discriminatory behavior against them.

¹⁷ Compare with Langton's claim that pornography constitutes norms to the effect that women enjoy rape, or that they are, by nature, submissive.

¹⁸ Note that I am not suggesting that images in advertising affect all consumers in this way, but only that the consumers who *are* affected in this way may not want to be so affected, that is, that these consumers may not accept advertising as a source of norms.

But if Green is right, then advertising doesn't subordinate, for the same reasons that pornography doesn't subordinate. To see this, consider the analogues for (1) and (2) in the case of advertising:

(1') It is *not* generally accepted among its consumers that advertising constitutes norms for them with respect to matters of body image.

(2') Advertisers don't give their customers reason to believe that they *intend* to constitute norms for them.

(1'), which is the analogue to (1), follows from what I said above, that is, that advertising constitutes norms even for some who don't wish to be so affected. And (2') is true for the same reasons, *mutatis mutandis*, that (2) is true. Then, in light of Green's picture of how authoritative illocutions constitute norms, it follows that advertisers don't constitute norms for their consumers, and therefore, that they don't subordinate women. A similar argument can be constructed for many other forms of representation.

The broad reach of Green's argument is important for the following reason. As I have already mentioned, some of those who object to MacKinnon's views on pornography are nevertheless willing to accept that other forms of representation do subordinate; some complain that these other forms do at least as much harm to women as pornography, and consequently, that feminists make a mistake in focussing on pornography to the extent that they do. If we agree with such views – and there is, I think, much to be said in their favor – then we must *either* reject Green's argument, or show why it cannot be modified to apply to the forms of representation that we *do* think subordinate. The latter, I suspect, is not an easy task.

B. Pornographers' Intentions

Green's discussion of authoritative illocutions brings to light a crucial aspect of illocutionary acts: typically, these acts work via the publication and recognition of the speaker's intentions. In general, recognition of a speaker's intention to perform a particular illocutionary act isn't, by itself, sufficient to ensure the success of the act, but it is necessary. There are, however, some hard cases,

that is, cases in which it is not clear whether an illocutionary act has been successfully performed. Among these are cases in which the speaker doesn't intend to perform an illocutionary act, but her audience takes her to be performing one; also, cases in which the speaker *does* intend to perform an illocutionary act, but her audience fails to recognize that she is attempting to do so; and even cases in which the speaker intends to perform one illocutionary act, but her audience takes her to be attempting to perform a different one. In some of these cases, the question about whether an illocutionary act is successfully performed may be decided by looking at what the speaker could *reasonably* have been supposed to be attempting to do, and what the audience could reasonably have been expected to recognize; but even considerations of this sort won't always settle the issue.

However, it is worth noting that, when we turn to pornography and the illocutionary act of subordination, we don't seem to have a case that is difficult in any of the ways enumerated in the previous paragraph. Instead, this is a case in which, arguably, the speakers don't intend to perform the illocutionary act in question; at the very least, if Green is right, it is a case in which the speakers don't give their audiences much *reason* to suppose that they have any such intention.¹⁹ Further, it is also plausible that the audiences don't take the speakers to be attempting to perform that act. If this is right, then it seems that there really is no question about whether pornographers successfully perform the illocutionary act of subordination in producing and distributing pornography: rather, it appears that the answer is unequivocally negative.

But there is more to be said here. As we saw above, the speech act model, recommended by Langton, and not challenged conceptually by Green, seems to commit us to asking certain questions about pornography, particularly questions about pornographers' intentions in producing and distributing pornography. But let us compare this to how we think about subordination in other cases. Imagine a "Whites Only" sign placed over an entrance to a restaurant, a "N.I.N.A."²⁰ sign placed in a shop window, or a Confederate flag placed in the window of a private residence. Let us

¹⁹ Plausibly, this follows from the truth of (2).

²⁰ No Irish Need Apply.

assume, for the moment, that the first two signs aren't actually enforced in those particular establishments. Even then, it seems that these images may subordinate, at least in certain social contexts.²¹ But does it seem right to suppose that *whether* they subordinate depends on what was intended by the person(s) who placed – or produced, or distributed – the signs? Suppose that the owner of the restaurant, the shop, or the residence testifies that his intention in putting up the sign is simply to preserve a part of American history, and to remind others of that part; suppose, further, that he is entirely sincere in this, if somewhat naive. Would the benignancy of his intention suffice to establish that the sign he puts up *doesn't* subordinate in that particular context? The answer, it seems to me, is again clearly negative.

My point here is not that all, or even most, of those who put up signs of the types mentioned in the previous paragraph do not intend to subordinate, or even that they don't give others reasons to believe that they intend this; rather, my point is that *their* intentions seem entirely irrelevant to whether these images *do* in fact subordinate. And if that's right, then we should also notice that the speech act model tells us to approach the question of whether *pornography* subordinates rather differently from the way in which we are inclined to approach the question of whether these signs subordinate, and it isn't clear how that difference can be justified.

C. Pornographers' Social Role

I have been arguing, *contra* Green, that pornographers' intentions don't matter to whether pornography subordinates. That is *one* way in which Green's argument misses the mark, assuming, of course, that the mark is the Subordinating Thesis, and not simply Langton; but it is not the only way. As we've seen, Green argues that pornographers don't, as a matter of fact, have the authority to constitute norms – and therefore, to subordinate – in our society. He doesn't undertake to show

²¹ There is, of course, a question about whether these signs *cause* subordination or *constitute* it. I think it's plausible that signs can constitute norms, and thereby subordinate: for instance, it has been argued that flags, in certain contexts, legitimate violence in the name of patriotism. As we shall see, the question then becomes: is there some way to give an account of how an image can constitute a norm that doesn't rely on speech act theory and, in particular, the concept of illocution?

that pornography *couldn't* subordinate in any social context: thus, for instance, he doesn't suggest that Langton fails to save the Constitutive Version of the Subordinating Thesis from charges of conceptual confusion. Rather, it seems that Green would *agree* with Langton that there are "imaginable circumstances where material just like pornography in other respects would have no authority, and in such circumstances such speech would not subordinate"²²; the disagreement between the two, with respect to the question of whether pornography subordinates, seems to focus largely on what *our* circumstances are like.

Thus, we see that Green and Langton both think that whether pornography subordinates is a context-dependent matter: more specifically, it is a matter that is decided by the particularities of the *social* context. But how, precisely, is social context relevant here? That is, how do some social contexts constitute pornography as authoritative, while others don't? An answer to these questions is suggested by Green's discussion of authoritative illocutions.

Green argued that pornography's lack of authority can be explained, in part, by the fact that it is not generally accepted by its consumers as constituting norms for them with respect to sexual matters²³; instead, pornography is merely considered to be "masturbation material." Further, according to Green, this lack of acceptance of pornography as a source of norms can, in turn, be explained by the general perception of pornography as "low-status speech" in our society.²⁴ Green doesn't explain what he means by this phrase, but the interpretation that immediately suggests itself is this: to say that a kind of speech is "low-status" in the relevant sense is to make a claim about the relative social status of the speakers. In this case, of course, the speakers are the pornographers. Thus, Green seems to think that it is relevant here that pornography, as an institution, has significantly lower social status than, for instance, "the state, the family, and the church."²⁵ As a

²² Langton, "Speech Acts and Unspeakable Acts," p. 313.

²³ This "fact" is just thesis (1).

²⁴ Green, "Pornographizing, Subordinating, and Silencing," p. 297.

²⁵ Green, "Pornographizing, Subordinating, and Silencing," p. 296.

result, he suggests, the speech of those who occupy offices in the latter institutions can set binding standards of behavior in a way that the speech of pornographers cannot.

Significantly, much of what Green says here fits extremely well with Langton's views on subordination. Recall Langton's paradigmatic example of illocutionary subordination: the utterance of "Blacks are not permitted to vote" by legislators in South Africa in a context in which it enacts a voting law. The speakers in this example occupy offices within one of the high-status institutions Green mentions. And it is particularly clear in this example that the speakers subordinate in virtue of their social positions, for they subordinate by enacting a law, and they manage to enact this law in virtue of the offices they occupy.

Thus, once again, it seems that the speech act model commits us to asking certain questions: in this case, these are questions about the social position, including the relative social status, of the speakers.²⁶ But again, it is unclear how relevant these questions are in the current context, for it seems possible that certain forms of representation and certain images may subordinate in spite of the (relatively low) social position of their producers and distributors. Consider again the three images we discussed previously: the "Whites Only" sign over a restaurant entrance, the "N.I.N.A." sign in the shop window, and the Confederate flag in the window of a private residence. Do we need to know about the relative positions of the individuals who contributed to the presence of these images in these locations in order to determine whether they subordinate? It seems to me that we can know that they do subordinate even if we know nothing about these individuals, but do know about the existence and functioning of racist social practices and institutions in the relevant social context, and about how these images contribute to that functioning. I shall return to this point in the next section.

To summarize: there can be no doubt that whether pornography subordinates is a context-dependent matter. The speech act model of pornography commits us to one way of understanding

²⁶ Social position is dependent on, but not determined by, economic power. Pornographers have economic power, but arguably, they lack social position, at least as compared to those who occupy positions in the other institutions Green mentions.

this context-dependence: it tells us that pornography subordinates, where it does, in virtue of the social positions of the pornographers. But that isn't the only way of spelling out this context-dependence. It seems right that forms of speech sometimes subordinate by virtue of the social position of their producers and distributors; but there are other ways in which a social context might constitute a particular form of speech as authoritative. Green succeeds in ruling out one way in which our social context might have constituted pornography as authoritative; but, since he isn't interested in challenging the speech act model itself, he doesn't even consider the other ways.

IV. TOWARDS A DIFFERENT APPROACH: SOME QUESTIONS AND CONSEQUENCES

I have now presented several worries about Green's argument. But where, we might ask, does this leave us with respect to the main concern of this chapter, namely, the speech act model of pornography? To answer this question, it will help to briefly recapitulate our discussion thus far. As we've seen, Langton offers the speech act model as a way of making sense of the Constitutive Version of the Subordinating Thesis, which claims that,

Pornography *constitutes* the subordination of women.

Very briefly, this model regards pornography as speech, and the production and distribution of pornography as speech acts, in particular, as instances of the (illocutionary) speech act of subordination. Accordingly, acts of producing and distributing pornography are, on this view, taken to be authoritative illocutions.

Green accepts this attempt to make sense of the Subordinating Thesis, but argues that the thesis is in fact false in the social context in which *we* live.²⁷ In constructing this argument, Green expands upon the speech act model by describing an account of authority, and a picture of authoritative illocutions, to which he takes this model to be committed. Further, he suggests that once these commitments are appreciated, it becomes clear that pornography is not, in our society,

²⁷ Green, it seems, would think that this would be the case in any "liberal" society that supports "principles of free expression," and in which pornography is "low-status speech" in the manner discussed earlier. See his "Pornographizing, Subordinating, and Silencing," pp. 296-7.

an authoritative illocution in the sense required by Langton. The crucial sticking points, for Green, are these: first, whereas illocutions typically work by the publication and recognition of the speaker's intentions, pornographers don't give their consumers any reason to suppose that they intend to subordinate; and second, whereas authoritative illocutions usually subordinate, where they do, in virtue of the social positions of the speakers, pornographers arguably occupy a relatively low social position within our society.

Against this, it seems to me plausible that images can subordinate even if their producers and distributors don't intend them to, and even if the social positions of those producers and distributors, and perhaps even their very identities, are not generally known. If this is right, then the pornographers' intentions and social positions are in fact red herrings with respect to the question of whether pornography subordinates; and insofar as the speech act model commits us to asking about said intentions and social positions, it commits us to asking the wrong questions.

Let me offer a diagnosis of *why* the speech act model goes wrong in this manner: as I suggested earlier, that model regards subordination as an "individual wrong," that is, as a wrong done by one agent, or group of agents. Where such wrongs are concerned, intentions are crucial: to establish that such a wrong has been done, it is not enough to show that one agent *harms* another agent (or group). Additionally, it needs be shown that the first agent *intended* the harm, or at the very least, that the harm is a foreseeable consequence of something that the first agent did intend: typically, the intention helps individuate the act, and therefore, the wrong. Conversely, if no such intention can be established, we may still be able to show that there is harm, but not that there is an individual wrong.

It is also crucial, with respect to individual wrongs, that the agent who commits the wrong have the necessary power or authority: it is in virtue of having this power that the agent is able to perform the wrong. In many cases of individual wrong, the relevant kind of power will be the agent's *social* power, derived from his social position or role: Langton's paradigmatic case of subordination, concerning South African legislators enacting apartheid law, is an individual wrong of this type. But there are also cases of individual wrong in which other kinds of power, such as

the agent's *physical* power, are also at issue: murder may be an example of an individual wrong of this latter type. However, all individual wrongs have this in common: in order to establish that such a wrong has been done, we need to pay attention to the kind of power had by the *agent* who is supposed to have committed the wrong. Therefore, one way of arguing that an agent hasn't in fact performed a particular individual wrong is to show that he doesn't have the relevant kind of power.

In theorizing any wrong, including subordination, as an illocutionary act, we understand it as an individual wrong: if the wrong is constituted by the illocutionary act, it is a wrong done by one agent, the speaker, against others. Institutions cannot perform illocutionary acts; nor can social practices. As we've seen, the speech act model of pornography treats subordination as an illocutionary act: accordingly, it makes sense that that model requires us to consider pornographers' intentions and social positions in order to establish whether pornography in fact subordinates. I've argued that these are not the relevant considerations; if that's right, then, in light of what I've said in this section, it seems to follow that we should reject the speech act model, and the approach to subordination it exemplifies. But then we are left with the question: what other approach is there?

We might begin the attempt to imagine a different approach to subordination by recalling the type of wrong that Haslanger contrasted to individual wrongs, namely, social/political wrongs. A wrong of this second type is constituted by the arrangement or organization of social or cultural institutions, practices, policies, and other structures, rather than by the actions of particular individuals. A social/political wrong, as I understand it, may be done regardless of the intentions of the individuals involved with the relevant structure: this is because any such structure can construct social reality in various ways that are not intended by any individual, or even group of individuals, within the structure. Further, such a wrong might be done even if none of the individuals involved with the structure has high social position, that is, is recognized as socially powerful. Plausibly, the constitution of a particular social/political wrong will depend crucially on what kind of wrong it is, and which types of structures are involved: given the central concerns of this chapter, I shall

therefore concentrate on what it would be to regard *subordination* as a wrong of this type, where pornography is the relevant structure.

What we want, then, is a way of thinking about subordination that, first, makes sense of the Constitutive Version of the Subordinating Thesis, and second, views subordination as a social/political wrong. As a first step, we might take up again Langton's idea that pornography subordinates by constituting norms, and ask: is there any way to make sense of the view that pornography constitutes norms without regarding that constitution as an illocutionary act? I shall conclude this chapter by describing, very briefly, a line of thought that seems to promise an affirmative answer to this question.

A remarkable aspect of Langton's discussion of pornography is its consistent lack of attention to the *contents* of pornographic texts and images, that is, to what these texts and images convey, and to how they convey what they do²⁸: at least at first glance, it is surprising to find an account of how pornography constructs social reality that largely ignores such issues. However, this lack of attention begins to make sense once we recall that, for Langton, the question of whether pornography subordinates in a given context turns on whether pornography has authority in that context, and the latter question, as we've seen, turns on the authority of *pornographers* in that context, rather than on anything to do with the contents conveyed by pornography. Thus, Langton writes, "If pornography subordinates women, then it is not in virtue of its content, but of its authority that it does so."²⁹

But perhaps Langton is wrong to dissociate the questions of pornography's authority and its contents to the extent she does. Might we suppose, instead, that whether pornography has authority, or social power, in a given context *does* depend on what it conveys in that context, and even on *how* it conveys what it does? That is to say, is it plausible to suppose that certain kinds of

²⁸ The exception to this is the paper co-authored by Langton with Caroline West, "Scorekeeping in a Pornographic Language Game." But even this piece can hardly be considered a sustained effort at content analysis.

²⁹ Langton, "Speech Acts and Unspeakable Acts," p. 313.

speech – or, more generally, certain forms of representation – might subordinate just in virtue of what they convey in a given context?

There are, I think, two related ways in which the (social and cultural) context can help constitute particular texts and images as authoritative: first, the context can help determine what those texts and images mean – what they convey – to particular individuals; and second, the context can also help determine what those individuals *learn* from the texts and images. The first point is, in a sense, obvious: it is, after all, quite uncontroversial that the meanings of texts and images depend on the context. Nevertheless, it is worth emphasizing how extensive this context-dependence is. Consider again the Confederate flag that was placed in the window of the private residence. What this image conveys, to a particular individual, depends on a variety of factors, including all of the following: the symbolism of flags; his associations with the Civil War; his experiences of racial oppression; his sense of the connection between past and present; and so on. And, though this requires argument, it seems entirely *reasonable* for different individuals to understand such images in these widely varying ways.

That the social and cultural context also determines what individuals *learn* from texts and images is perhaps less obvious. But I think that this point can be illustrated by considering another example involving the use of a flag, namely, the proliferation of the American Stars and Stripes in the immediate aftermath of the events of September 11th. In a context in which the flag has militaristic and jingoistic overtones, members of many minority groups, and others, found this proliferation very threatening, precisely because they felt that it legitimated violence against individuals perceived to be Arabic or Muslim. Arguably, the fear was that the widespread deployment of such flags gave the green light, so to speak, to those who wished to exact vengeance for the terrorist attacks, that these individuals would – quite reasonably, though of course this requires argument – take the pervasiveness of these flags as giving them the go-ahead to vent their anger.³⁰ Though the American flag had presumably some of the same meanings *before* September

³⁰ Katha Pollitt makes some of the points in this paragraph. See her “Put Out No Flags,” *The Nation*, October 8, 2001. Notice also that I am *not* claiming that these flags caused individuals who would otherwise be nonviolent to

11th as well, the concern that it would legitimate violence in this way became far more acute in the period following that day. That is to say, I think, that the post-September 11th context constituted the American flag as authoritative in a way that it hadn't been previously.

Unlike the examples we have been considering in the previous two paragraphs, pornography consists not of a single image, but of sequences of images, and texts as well. But the kinds of context-dependence outlined in the previous paragraphs apply just as much to pornography, as well as to other forms of fiction and fantasy. In fiction, as in the images discussed above, what the texts and images mean, and what readers learn from them, depend crucially on the social and cultural context; and as with the previous cases, the context can sometimes succeed in giving them the authority to constitute norms. If that's right, then in order to figure out whether pornography subordinates by constituting norms for its consumers, we need to answer the following questions. How does the social and cultural context help constitute what particular works of pornography mean to an individual, or to members of some group? What aspects of an individual's social and cultural identity are relevant to determining what such a work mean to him, and how are these aspects relevant? How does an individual *learn* from a given piece of pornography? And, finally, under what conditions is it *reasonable* for an individual to learn what he does from such a piece? The answers to these questions would, I think, go a long way towards explaining how certain contexts may constitute certain contents as authoritative, and therefore, as subordinating.

V. CONCLUSION

Sometimes, Langton writes, "saying so can make it so"³¹: for instance, sometimes saying that someone is inferior is enough to make him count as inferior, that is, to *rank* him as inferior. The speech act model of pornography gives us one way of spelling out this thought: saying so can make it so, according to that model, when the words are spoken by the right speaker. I have tried to

become aggressors, but rather that the proliferation of these flags directed their perhaps already latent aggression towards members of certain races and ethnicities.

³¹ Langton, "Subordination, Silence, and Pornography's Authority," p. 267.

suggest a different interpretation of this slogan: saying so can also make it so when the words are spoken in the right way in the right context, regardless of *who* speaks them. Of course, the speaker is part of the context; but it seems to me that, when addressing the question of whether pornography subordinates, we need to focus our attention on other aspects of the context as well, to see how *they* might figure certain words and certain images as powerful, as authoritative, regardless of the intentions or the social power of the person(s) uttering them. If that's right, then what we need is an account of how the meanings of texts and images are constituted by the contexts in which they are made available, and of how consumers learn from said texts and images. Such an account would help us understand subordination as a social/political wrong, for it would allow us to see it as a wrong that is constituted, in a deep sense, by the social and cultural context.