

Beyond Belief: Pragmatics in Hate Speech and Pornography

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1. Hate speech and pornography¹

1.1. *Game plan: scope*

Political theorists and philosophers of language are alike in wanting to know answers to certain questions about speech: what is speech for, and why does it matter? J. S. Mill took the primary function of speech to be our collective journey towards true belief, and he argued for a right to free speech that would allow it fulfill this distinctive function.² Political theorists following in Mill's footsteps have wondered how far this goes. Some speech appears to offer dim prospects for helping us reach Mill's hoped-for destination. To take an example that will occupy us here, speech that promotes racial or sexual hatred is hardly friendly to the pursuit of true belief; and it is by no means obvious that freedom of speech stretches to freedom of hate speech.

Philosophers too are interested in speech and its relation to true belief. They ask how speech works. To answer these questions, they develop theories of meaning, and theories of speech acts and pragmatics. Robert Stalnaker gives voice to a crucial desideratum for such theorizing: it is desirable that 'the pragmatic notions developed to explain the linguistic phenomena be notions that help to connect the practice of speech with purposes for which people engage in the practice.' He has a certain paradigm in mind. The 'principal reason for speech', he says, is that 'people say things to get other

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² J.S. Mill, 'On Liberty' (1859) ch. 2, in *J. S. Mill: Utilitarianism and Other Writings*, ed. Mary Warnock (New York NY: New American Library, 1962).

people to come to know things that they didn't know before'.³ Mill would surely have applauded.

This paradigm guides Stalnaker towards an emphasis on the special role of shared belief, for parties to a conversation. Speakers often rely on, or assume, a body of shared belief, a 'common ground' that provides the backdrop to the conversational moves they want to make. If I say, 'Even Sarah Palin could win', I rely on a shared belief that she is a less than stellar candidate. But more than that, it sometimes happens that I help to *create* that shared belief, if it was not shared before—and if nobody blocks my move with an indignant 'What do you mean, *even* Sarah Palin?' The beliefs of parties to a conversation tend to *accommodate* to whatever is needed to make sense of what is going on, thereby building up a ground of common belief that speakers can exploit in what they do next with their words.⁴

Can these stories told by philosophers shed light on hate speech? Can attention to hate speech return the favor, and help the philosopher's understanding of speech? The answer to both of these questions is probably, yes. This is already evident when one considers the interest philosophers have recently shown in the semantics and pragmatics of sentences that use epithets.⁵ But speech need not use epithets in order to express and

³ Robert Stalnaker, 'Common Ground', *Linguistics and Philosophy* 25 (2002) pp. 701-21, p. 703.

⁴ David Lewis, 'Scorekeeping in a Language Game', *Philosophical Papers* vol. I (Oxford: Oxford University Press 1983), 233-49; Jay David Atlas, 'Presupposition', in Laurence R. Horn and Gregory L. Ward, *The Handbook of Pragmatics* (Wiley Blackwell, 2004) 29-52; Kai von Fintel, 'What is Presupposition Accommodation, Again?', *Philosophical Perspectives* 22 (2008), pp. 137-170.

⁵ Christopher Hom, 'The Semantics of Racial Epithets', *Journal of Philosophy*, forthcoming; Timothy Williamson, 'Reference, Inference and the Semantics of Pejoratives', in Joseph Almog and Paolo Leonardi (eds.), *The Life and Work of David Kaplan* (Oxford: Oxford University Press, forthcoming); Mark Richard, 'Epithets and Attitudes', ch. 1 of *When Truth Gives Out* (Oxford: Oxford University Press, 2008); Jennifer Hornsby, 'Meaning and Uselessness: How to Think About Derogatory Words', in Peter French and Howard Wettstein (eds.), *Midwest Studies in Philosophy* 25

whip up hatred. Here, for instance, is an extract from Ernst Hiemer's 'The Holy Hate', in a 1943 issue of *Der Stürmer*:

Example 1:

We as a people will survive this war only if we eliminate weakness and 'politeness' and respond to the Jews with an equal hatred. We must always keep in mind what the Jew wants today, and what he plans to do with us. If we do not oppose the Jews with the entire energy of our people, we are lost. But if we can use the full force of our soul that has been released by the National Socialist revolution, we need not fear the future. The devilish hatred of the Jews plunged the world into war, need and misery. Our holy hate will bring us victory and save all of mankind.⁶

No epithets there, but this kind of anti-Semitic propaganda was effective, and considered grounds enough for its editor, Julius Streicher, to be tried at Nuremberg and executed for war crimes. There are plenty of reasons for philosophers to extend their interest beyond epithets. Here we shall be looking at politically problematic speech construed more broadly, with a focus on pornography and hate speech.

These forms of speech are hardly paradigms of what a political philosopher like Mill had in mind, when he argued that free speech could help us achieve true beliefs. They are hardly paradigms of what a philosopher of language like Stalnaker has in mind, when he suggests that the principal reason for speech is to get people to know things they didn't know before. Nonetheless I want to explore some possibilities for mutual illumination, which may prove the brighter if we are willing to consider some

(Oxford: Blackwell Publishers, 2001), 128-141; Michael Dummett, *Frege: Philosophy of Language* (Oxford: Duckworth, 1973).

⁶ Ernst Hiemer, 'The Holy Hate', *Der Stürmer*, ed. Julius Streicher (Streicher Verlag, 1943); *German Propaganda Archive*, trans. and ed. Randall Bytwerk, <http://www.calvin.edu/academic/cas/gpa/ww2era.htm>, accessed June 3rd 2009. While not containing epithets, the passage does, to be sure, contain the essentializing tag 'the Jew', and powerful use of generic constructions. For ground-breaking work on this

amendments that take us beyond the knowledge-oriented starting points of Mill and Stalnaker—amendments, in short, that take us beyond belief.

1. 2. *What is racial hate speech?*

The United Nations requires its member states to combat racial hate speech:

State Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end [...] shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin.⁷

This proposal points us towards a conception of hate speech as, among other things, propaganda. Here are some more gems from the Streicher-Hiemer collaboration, this time aimed at a young readership:

Example 3. The Poison Mushroom, 1938:

Title Story. The illustration depicts a mother and young son in the woods, mushroom hunting. The caption reads, ‘Just as it is often hard to tell a toadstool from an edible mushroom, so too it is often very hard to recognize the Jew as a swindler and a criminal.’

The Experience of Hans and Else with a Strange Man. Large, ominous hook-nosed figure doles sweets to small blond children. ‘Here, kids, I have some candy for you. But you both have to come with me...’

topic, see Sarah Jane Leslie, ‘The Original Sin of Cognition: Race, Prejudice and Generalization’, forthcoming in the *Journal of Philosophy*.

⁷ *International Convention on the Elimination of All Forms of Racial Discrimination*, 1965, Article 4, <http://www.hrcr.org/docs/CERD/cerd3.html>, accessed June 3rd 2009.

While many member states have implemented laws putting these principles into effect, the U.S. is an exception; its 1994 ratification was accompanied by a reservation pointing out that the requirement was incompatible with constitutional protection of speech.

Inge's Visit to a Jewish Doctor. A doctor leers from a doorway at a young German woman. 'Two criminal eyes flashed behind the glasses, and the fat lips grinned.'⁸

Hate speech of this form has helped to make history, as the examples illustrate. In Rwanda, genocidal fervor was whipped up by a campaign of hate speech broadcast from a Hutu radio station. Here is a sample:

Example 2. Valérie Bemeriki, Rwanda, 1994:

They [the Tutsi] are all *Inyenzi* [cockroaches]. When our armed forces will get there, they will get what they deserve. They will not spare anyone since everybody turned *Inyenzi*.

The repeated slur, perpetually casting the Tutsi as vermin, paved the way for the murder of more than half a million fellow-countrymen, in acts conceived as pest-eradication, as Lynne Tyrell aptly observes.⁹

What is going on, in hate speech, as described by the UN, and illustrated here?

According to the UN description, racial hate speech *disseminates* ideas based on racial superiority; it *promotes* racial hatred and discrimination—'promotes' in a causal sense. It also *incites* racial discrimination and hatred, and *promotes* racial hatred and discrimination—'promotes' in an advocacy sense. In terms that J. L. Austin made famous, there appear to be both illocutionary and perlocutionary dimensions to hate

⁸ Ernst Hiemer, *Der Giftpilz* (Streicher Verlag, 1938); *German Propaganda Archive*, trans and ed. Bytwerk, <http://www.calvin.edu/academic/cas/gpa/thumb.htm>, accessed June 3rd 2009. I describe the illustration, and quote its caption; the corresponding 'story' (along with others) is available at this site.

⁹ Lynne Tyrell, 'Genocidal Language Games', this volume. Note that 'Inyenzi' was at first a label self-ascribed by the Tutsi, so perhaps not initially pejorative. I am indebted to Tyrell for the quotation.

speech.¹⁰ Austin distinguished the act performed in saying certain words, which he called the ‘illocutionary’ act, from the later effects achieved by saying them, which he called the ‘perlocutionary’ act. For example, ‘In saying ‘Shoot her’, Smith *urged* the man to shoot’: that describes an illocutionary act. ‘By saying ‘Shoot her’, Smith *persuaded* the man to shoot’: that describes a perlocutionary act.

Both these dimensions are visible in hate speech. It has effects on hearers’ attitudes: they come to believe ‘ideas based on racial superiority’, as the UN puts it. The effects are on beliefs, and on other attitudes too. Some hearers begin to hate members of the target race, and desire to avoid them.¹¹ The effects are there because of what hate speech is, as an illocutionary act: it incites hatred. The perlocutionary effects have their explanation in the illocutionary force. I take it that ‘incite’ is an illocutionary verb, in a class with others such as ‘encourage’, ‘order’, ‘advocate’, and ‘legitimate’. ‘Promote’ is a verb that straddles both sides of Austin’s distinction. The word has a perlocutionary, causal sense, and an illocutionary, constitutive sense. When smoking promotes cancer, it causes it. When tobacco companies promote smoking, they advocate it. By advocating smoking, they also cause it, since their advocacy brings about an effect, namely that people smoke. So hate speech ‘promotes’ hatred in both illocutionary and perlocutionary ways: it advocates and causes hatred.

Both aspects of hate speech were evident in the court’s verdict, when Julius

¹⁰ J. L. Austin, *How to Do Things With Words* (Oxford: Oxford University Press, 1962); Rae Langton, Speech Acts and Unspeakable Acts, *Philosophy and Public Affairs* 22 (1993), 305-30; reprinted in Langton, *Sexual Solipsism: Philosophical Essays on Pornography and Objectification* (Oxford: Oxford University Press, 2009).

Streicher was tried at Nuremberg. He was condemned—

for his 25 years of speaking, writing, and preaching hatred of the Jews [...] In his speeches and articles, week after week, month after month, he *infected* the German mind with the virus of anti-Semitism, and *incited* the German people to active persecution.¹²

His speech was an illocutionary act: he ‘incited’ his countrymen to persecute the Jews.

As a result, his speech was also a perlocutionary act, with effects on his hearers’ mental states and actions, as they became ‘infected’ with anti-Semitism.

Besides working as a kind of propaganda, hate speech may sometimes work as a kind of assault. In the UN description, the envisaged hearers are other racists, or hoped-for racists, rather than members of the group targeted for hate. But some hate speech is used in a different way, to directly attack its target. Mari Matsuda’s account of hate speech allows for this dimension, when she identifies three characteristics of racial hate speech: its ‘message is of racial inferiority’; its message is ‘directed against a historically oppressed group’; and its message is ‘persecutory, hateful and degrading’.¹³ The envisaged hearers, for Matsuda, include not, or not only, other racists, or hoped-for racists. The envisaged hearers are, or include, members of the target group. Matsuda’s proposal draws on the idea of ‘fighting words’ in U.S. law, speech that assaults someone like a move in a physical fight. This expands not only

¹¹ There is also the thought that hate speech has a certain *source*: it is ‘based on’ ideas or theories of superiority of one race. This might mean it has its causal genesis in those ideas, or is premised on those ideas, or presupposes those ideas.

¹² G. M. Gilbert, *Nuremberg Diary* (Cambridge MA and NY, NY: De Capo Press, 1995) p. 442.

¹³ Mari Matsuda, ‘Public Response to Racist Speech’, in Matsuda, Charles R. Lawrence III, Richard Delgado, and Kimberle Williams Crenshaw, *Words that Wound: Critical*

our conception of the relevant hearers, but also of the relevant illocutionary force.

When racial hate speech is addressed directly to its targets, it directly ‘persecutes’, ‘degrades’ and ‘assaults’ them.

Consider the experience of Hank Aaron, who, in 1973, was poised to break Babe Ruth’s record for career home runs. As his score crept closer and closer to matching the Babe’s, he received a barrage of hate mail, of which the following is a sample:

Example 4. Letters to Hank Aaron, 1973:

‘Dear Mr. Nigger, I hope you don’t break the Babe’s record. How can I tell my kids that a nigger did it?’

‘Dear Nigger, You can hit all dem home runs over dem short fences, but you can’t take dat black off yo face.’

‘Dear Nigger, You black animal, I hope you never live long enough to hit more home runs than Babe Ruth.’

‘Dear Nigger Henry, You are [not] going to break this record established by the great Babe Ruth if you can help it... Whites are far more superior than jungle bunnies... My gun is watching your every black move.’¹⁴

(How nice that the last correspondent was able to illustrate his ‘far more superior’ social status, with his far more superior command of language.) This is hate speech aimed directly at a member of the target race: speech that is not propaganda, but assault, insult, threat. The distinction here is a context-sensitive one. Propaganda aimed at turning its hearers into racists could also be used as an attack on an individual, just like these letters. Imagine a copy of *Der Stürmer*, featuring ‘The Holy Hate’, left deliberately

Race Theory, Assaultive Speech and the First Amendment (Boulder, CO.: Westview Press, 1993), p. 36.

¹⁴ Randall Kennedy, *Nigger: the Strange Career of a Troublesome Word* (NY, NY: Vintage Press, 2003) p. 20.

where a Jewish colleague would find it. Assaultive hate speech is an important category, apparently not captured in the UN definition. My focus here, though, will be on speech directed towards hearers that are not members of the group targeted for hate. So having flagged it, I'm going to set it aside, for present purposes.

1.3. *What is pornography?*

One answer to this question has nothing to do with speech. Pornography is 'in a sense, a substitute for a sexual partner', according to Anthony Burgess.¹⁵ Another answer to this question has everything to do with speech, and with hate speech in particular.

Pornography is 'the undiluted essence of anti-female propaganda', according to Susan Brownmiller.¹⁶ It 'depicts women's degradation', and 'in such a way as to *endorse* the degradation', according to Helen Longino.¹⁷ It is 'the graphic sexually explicit *subordination* of women through pictures and/or words', according to Catharine MacKinnon.¹⁸ It is 'a depiction of subordination' that '[tends] to *perpetuate subordination*,' according to Judge Frank Easterbrook, who continued:

The subordinate status of women in turn leads to affront and lower pay at work, insult and injury at home, battery and rape on the streets... but this simply demonstrates the power of pornography as speech.¹⁹

¹⁵ Anthony Burgess, 'What Is Pornography?' in *Perspectives on Pornography*, ed. Douglas A. Hughes (New York: St. Martin's, 1970), p. 8; quoted in Joel Feinberg, *Offense to Others* (New York, NY: Oxford University Press, 1985) p. 130.

¹⁶ Susan Brownmiller, *Against Our Will: Men, Women and Rape* (New York: Bantam, 1975), p. 443.

¹⁷ Helen E. Longino, 'Pornography, Oppression and Freedom: A Closer Look', in *Take Back the Night: Women on Pornography*, ed. Laura Lederer, William Morrow 1980 p. 29. (Longino has the whole phrase in italics).

¹⁸ Catharine MacKinnon, 'Francis Biddle's Sister', *Feminism Unmodified* (Cambridge MA: Harvard University Press, 1987) p. 176.

¹⁹ 771 F.2d 329 (7th Cir. 1985), italics added.

Putting Burgess and Easterbrook together, we confront the strange conclusion that ersatz sexual partners are words, covered by First Amendment protection of the U.S. Constitution. The idea that pornography is ‘in a sense, a substitute sexual partner’ has prompted some to conclude that pornography is not really *any* kind of speech, but should rather be kept in the same category as sex dolls and toys, not subject to the protection reserved for speech proper.²⁰ Anti-pornography feminists might be expected to welcome this approach, and some do. But many regard pornography as speech: as subordinating speech (MacKinnon) or propaganda (Brownmiller). Some have suggested that proscriptions on hate speech be extended to cover pornographic speech that incites ‘sexual’ as well as racial hatred.²¹

On this way of thinking, pornography is something to which speech act theory could apply, and with the same double Austinian aspects as its racial hate speech counterpart. Easterbrook picks up on a perlocutionary dimension: pornography causally ‘perpetuates’ subordination, and contributes to violence. Longino and MacKinnon pick up on an illocutionary dimension: pornography ‘endorses’ women’s degradation, and ‘subordinates’ women. Note that misogynistic pornography may, like hate speech, sometimes function in an assault-like way, aiming directly at women: cases, for example, where it used in a campaign of workplace harassment. But again, as for the

²⁰ Fred Schauer, ‘Speech and “Speech”—Obscenity and “Obscenity”’: An Exercise in the Interpretation of Constitutional Language’, *Georgetown Law Journal* 67 (1979), 899-933; Jennifer Hornsby, ‘Speech Acts and Pornography’, *Women’s Philosophy Review* 10 (1993), 38-45; reprinted in Susan Dwyer, ed., *The Problem of Pornography* (Belmont, CA.: Wadsworth, 1995). See also Mary Kate McGowan and Ishani Maitra, ‘Limits of Free Speech: Pornography and the Question of Coverage’, *Legal Theory* 13 (2007), 41-68; Melinda Vadas, ‘The Manufacture-for-use of Pornography and Women’s Equality’, *Journal of Political Philosophy* 13 (2005), 174-93.

²¹ Catherine Itzin, ed., *Women, Violence and Civil Liberties* (Oxford: Oxford University Press, 1993); Susan Easton, ‘Pornography as Incitement to Sexual Hatred’, *Feminist Legal Studies* 3 (1995) 89-104.

case of racial hate speech, we shall focus on pornography that is not directed specifically to women as hearers.

1.4. Game plan: limits

We are going to be looking at what pornography and hate speech may have in common. This means we'll be leaving aside some interesting questions in the vicinity that deserve attention. For example: might there be overlap between pornography and racial hate speech? Apparently yes. Some racial hate speech is also pornography, and some pornography is also racial hate speech. Streicher's main aim, in publishing *Der Stürmer*, was to stir up hatred towards Jews. One way he made it effective was by marrying hate speech to sex, filling the pages with lurid pictures offering the Adults Only equivalent of 'Inge's Visit to the Doctor', narratives of innocent German girls seduced and violated by Jewish men. Conversely, some pornography can be racist hate speech. While the main aim of pornographers is to make money by selling sex, they sometimes make more money if they marry porn to racism, providing options that create and cater to racial taste.

Besides the question of overlap between pornography and hate speech, there is the question of asymmetry between them. A simple case of racial hate speech, unmarried to pornography, will be different in many ways from a simple case of pornography, unmarried to racism. Here are three asymmetries worth noting: there may be differences of 'speech situation', differences of intention, and differences of apparent acceptability. The typical 'speech situation' of pornography consumption is, as Burgess noted, more like having sex than like reading the newspaper; indeed it typically *is* a situation of having sex. Further, the typical intentions of hate speakers are often more consciously hateful than the typical intentions of pornographers. While one can think of exceptions, a rough rule is that most hate speakers are driven by hate, while most pornographers are driven by money. Finally, the status of pornography as propaganda is less visible than the status of its racial counterpart, not only because of the apparent

differences in speaker intention, but because of the difference in perceptible hierarchy. For racial hate speech, hierarchy and subordination look like what they are—namely hierarchy and subordination. For pornography, hierarchy and subordination look like what they are *not*—namely the natural sex difference.

To sum up these caveats: in what follows, we'll leave aside these important differences between pornography and racial hate speech, and focus on what they might have in common. We'll also be assuming, rather than arguing, that pornography and hate speech have the effects critics claim for them, though that is of course a large topic in its own right.²² On the assumption that pornography and hate speech sometimes work in similar ways, we'll be asking: what work do they do, and how do they work? The speech act story sketched above suggests that there are constitutive and causal aspects to a story about what work they do: hate speech can both incite hatred, and produce hatred. We'll be looking at constitutive and causal aspects of this kind of speech; and in attending to causal effects, we'll be looking at changes not only in hearer's beliefs, but in other attitudes, including hatred and desire. And in thinking about *how* this sort of speech works, we'll begin with the thought that the speech act story has promise, but it is not the only contender.

²²For an interesting evaluation and development of causal anti-pornography argument, see A.W. Eaton, 'A Sensible Antiporn Feminism,' *Ethics* 117 (2007) 674-715. For social science background: a meta-study by Neil M. Malamuth, Tamara Addison and Mary Koss, 'Pornography and sexual aggression: Are there reliable effects and can we understand them?' *Annual Review of Sex Research* 11 (2000) 26-91; Edward Donnerstein, Daniel Linz, and Steven Penrod, *The Question of Pornography: Research Findings and Policy Implications* (New York: Free Press; London: Collier Macmillan, 1987). Pamela Paul reviews and comments on social science evidence, and new data from interviews, in *Pornified: How Pornography is Transforming Our Lives, Our Relationships, Our Families* (NY, NY: Henry Holt, 2005).

2. *Five models*

How, then, do pornography and hate speech work, when they do? Let me outline five different pictures of what is going on. We've already begun to look at the speech act model; in addition, I want to sketch an *argument* model; a *conditioning* model; an *imitation* model; and a *pragmatic* model. Some of these pictures are compatible; others compete.

2.1. *A speech act model.* This is implicit, I suggested, in the UN description of hate speech, and feminist description of pornography. According to this model, these forms of speech work, in Austin's terms, as *illocutionary* acts that can e.g. subordinate certain groups, legitimate attitudes and behaviours of discrimination, advocate violence, discrimination and hatred; they may also work as *perlocutionary* acts, that cause subordination, and producing changes in attitudes and behaviour, including violence, discrimination and hatred.

2.2. *An argument model.* On this picture, pornography and hate speech are a form of political speech, which present arguments for conclusions about how to live the good life. This is compatible with the illocutionary story, and can be viewed as offering an optimistic suggestion about what the illocutionary force of such speech is. Since political speech is especially likely to receive First Amendment protection, this model is of dialectical importance. I find at least the germ of it in Ronald Dworkin. He says that the pornographer, for example, contributes to the 'moral environment, by expressing his political or social convictions or tastes or prejudices informally'. Pornography, he says, 'seeks to deliver' a 'message' that 'women are submissive, or enjoy being dominated, or should be treated as if they did': it is comparable to political speech 'advocating that

women occupy inferior roles'.²³ On this picture, the pornography consumer is presented with reasons for revising his normative beliefs. As normative beliefs alter in light of these new reasons, so too do desires, since one's desires follow one's conception of the good.

2.3. *A conditioning model.* At the other extreme, we have it that pornography or hate speech may work 'as primitive conditioning', with pictures and words being 'stimuli', as MacKinnon writes of pornography.²⁴ There is little scope here for argument, or the advocacy of political views. Pornography's status as speech is regarded as incidental, so this proposal, on the face of things, competes with the illocutionary account. It is like the story of Pavlov's dogs. Subjects associate some neutral stimulus often enough with an attractive one, and the previously neutral stimulus becomes a turn-on. Some social scientists appear to support the conditioning hypothesis for pornography. Consider this study (perhaps not about pornography in MacKinnon's sense) where an experimenter—

created a mild boot fetish in heterosexual male students by pairing slides of sexually provocative women with a picture of a pair of black knee-length women's boots. Not only did the boots become somewhat sexually arousing, but there was a slight tendency for this conditioned response to generalize to other footwear as well. The author concluded that there is little

²³Ronald Dworkin, 'A New Map of Censorship', *Index on Censorship* 1/2 (1994) p. 13, and 'Two Concepts of Liberty', in *Isaiah Berlin: A Celebration*, ed. Edna and Avishai Margalit (London: Hogarth Press, 1991) pp. 104, 105. He suggests that pornography succeeds in persuading people when he concedes some of the effects claimed by MacKinnon: 'there is some evidence that exposure to pornography weakens people's critical attitudes toward sexual violence', 'Two Concepts', p. 105; Jennifer Hornsby comments, 'Speech Acts and Pornography', *Women's Philosophy Review*, November 1993, 38-45, reprinted with a postscript in Susan Dwyer (ed.), *The Problem of Pornography* (Belmont, CA: Wadsworth, 1995), 220-232.

²⁴Catharine MacKinnon, *Only Words* p. 16.

question that sexual responsiveness can be conditioned to external stimuli that initially fail to elicit any sexual arousal.²⁵

Drawing on research of this kind, Danny Scoccia argues that violent pornography helps create violent desires by a process of conditioning, and he takes this to have implications for politics. Since liberal principle ‘does not protect speech insofar as it non-rationally affects its hearers’ mental states’, a ban on violent pornography is consistent with liberalism.²⁶ On this model, what initially changes is *desire*, sexual responsiveness; if there are changes in other attitudes, they probably arrive hanging on the coat-tails of desire.

2.4. *An imitation model.* In an elegant cross-disciplinary essay, Susan Hurley brings recent research on imitation to bear on questions about media violence and free speech.²⁷ Her argument has implications for the forms of speech that involve simulation and imitation, and so it will be relevant to some forms of hate speech and pornography. Drawing on current work in the cognitive and neurosciences, Hurley takes us through the evidence for (among other things) ideomotor theory, and the so called ‘chameleon effect’. Watching or imagining an activity in sufficient detail can help one perform it

²⁵Edward C. Nelson, ‘Pornography and Sexual Aggression’, in Maurice Yaffé and Edward Nelson (eds.), *The Influence of Pornography on Behaviour* (London: Academic Press, 1982) p. 185, citing a 1966 study by S. Rachman (‘Sexual fetishism: An experimental analogue’, *Psychological Record* 16 (1966) 293-296).

²⁶Danny Scoccia, ‘Can Liberals Support a Ban on Violent Pornography?’, *Ethics* 106 (1996) 776-799. The quotation is from p. 777. Cass Sunstein argues that since pornography aims at arousal and affects propositional attitudes by a process akin to subliminal suggestion, it is non-cognitive speech, ‘Pornography and the First Amendment’, *Duke Law Journal* (September 1986) 589-627.

²⁷Susan Hurley, ‘Imitation, Media Violence, and Freedom of Speech’, *Philosophical Studies* 117 (2004), 165-218.

better. Subjects have a (defeasible) tendency to match their behaviour to the traits, actions and stereotypes being modeled around them. Hurley proposes this as a possible explanation for the effects of media violence on behaviour, especially on children. Short term priming effects are observed, the ‘chameleon effect’, and also longer term ‘cognitive scripting’ effects. Sometimes scripting effects work via behaviour that is contrary to the agent’s official values, so that a person who officially rejects violent norms can nonetheless find himself following a violent script.²⁸ Hurley rightly thinks there are significant implications here for debates about free speech. Perhaps we may decide that the value of free speech is worth the social cost of violent speech; but if we do go there, she says, we should go with our eyes open.

2.5. *A pragmatic model.* On this picture, pornography and hate speech are not in the business of offering reasons or arguments. Nor are they in the business of merely altering attitudes and behaviour via conditioning, or unconscious imitation.²⁹ In a development of Austin’s speech act theoretic model, the pragmatic approach considers the question of how in more concrete terms pornography might have the illocutionary force of altering norms and social conditions, by legitimating, or advocating, certain beliefs, attitudes and behaviour.

²⁸ Hurley p. 181, citing research by L.R. Huesmann and L.D. Taylor, ‘The case against the case against media violence’, in D. Gentile (ed.), *Media Violence and Children* (Westport CT: Greenwood Press, 2004); and G. Comstock and E. Scharrer, ‘The contribution of meta-analysis to the controversy over television violence and aggression’, in Gentile *op cit*.

²⁹ It least it’s not explicitly doing that. If simulation theorists are right about our cognitive makeup though, it could be that all the ordinary processes of acquiring beliefs from each other involve something like imitation. I won’t pursue this here.

Unlike the speech of a legislator, hate speech and pornography are not usually spoken by officials uttering classic Austinian illocutions. Its speakers do not officially, and authoritatively, say, for example, ‘I hereby subordinate’, or ‘I hereby authorize you to discriminate’. Such speech acts work more subtly. They may implicitly *presuppose* certain facts and norms, rather than explicitly enacting them; but these implicit presuppositions may nonetheless work in ways that are comparable to classic Austinian illocutions.³⁰ Consumers then change their factual and normative beliefs by taking on board the ‘common ground’ (in Robert Stalnaker’s phrase), or the ‘conversational score’ (in David Lewis’s phrase) that is presupposed in the pornographic ‘conversation’.³¹

Stalnaker and Lewis observed that conversational score, unlike the score of a baseball game, follows rules of accommodation: it tends to evolve in whatever way is required to make the play that occurs count as correct play. If I say, ‘Even Palin could win’, I add to the score not only the proposition I asserted, namely that Palin could win, but also what I presupposed, namely that Palin is an unpromising candidate. Unless of course I’m challenged (‘What do you mean *even*?’). Drawing on these insights, Caroline West and I have argued that even if pornography does not explicitly say that women are inferior, or that sexual violence is legitimate, such propositions might be presupposed by what pornography explicitly says. Consider, for example, what the social scientists studying pornography describe as a ‘favorable rape depiction’. In one example of such pornography, a woman is gang raped on a pool table in a bar, the men ignoring the woman’s resistance, the woman eventually reaching a ‘shuddering orgasm’. It may be stretching things to think of pornography in conversational terms,

³⁰ I proposed this idea in a paper co-authored with Caroline West Rae Langton and Caroline West, ‘Scorekeeping in a pornographic language game’, *Australasian Journal of Philosophy*, reprinted in Langton, *Sexual Solipsism*.

but in speech like this, rape myth propositions such as ‘when women say no, they mean yes’, might become part of the ‘score’ —part of the ‘common ground’ — shared between speaker and hearer.³²

Mary Kate McGowan’s work on the ‘conversational exercitive’ can be seen as a development of the pragmatic model. Any conversational move that contributes to the score is also an illocution that alters normative facts about what is permissible, and even possible, in the conversation thereafter. She points out that conversational exercitives are different to paradigm Austinian speech acts. They work in covert ways: speakers don’t need to be *intending* to alter any facts about permissibility, nor do they need the special *authority* that Austin attributed to speakers who enact norms.³³ In the conversation following an unblocked utterance of ‘Even Palin could win’, certain moves are impermissible later on (e.g. ‘Hey, guess what, Palin is an unpromising candidate!’). Certain moves are permissible later on (e.g. mockery of Palin), that exploit a now-common belief about Palin’s incompetence. The earlier conversational move changes facts about what is permissible, whether or not the speaker intends them to, and whether or not the speaker is especially authoritative.

The pragmatic story has promise, as a way to show how informal speech by ordinary speakers may change beliefs and alter norms, without needing to meet the strong felicity conditions typically required by traditional Austinian speech acts. And it can explain how speech can alter beliefs rather directly. If we think in Lewis’s terms,

³¹ Stalnaker, ‘Common Ground’; Lewis, ‘Scorekeeping’.

³² *Hustler*, January 1983, cited by Itzin, *Pornography*, discussed in Langton and West, ‘Scorekeeping’, pp. 184-5. Some social science data are collected in Donnerstein *et al*, *The Question of Pornography*.

³³ Mary Kate McGowan, ‘Conversational Exercitives and the Force of Pornography’, *Philosophy and Public Affairs* 31 (2003), 155-189; ‘Conversational Exercitives: Something Else we Do with Our Words’, *Linguistics and Philosophy* 27 (2004), 93-111.

we will say that, just as in a baseball game, the beliefs of players and spectators change in response to changes in the abstract score, in like manner the beliefs of speakers and hearers change in response to the abstract conversational score. If we think in Stalnaker's terms, the connection will be even more direct: altering the shared 'common ground' just *is* altering the shared 'common belief'. On an oversimplifying assumption, conversational score, common ground, and common belief, are pretty much the same thing, in his framework. It's true that Stalnaker sometimes identifies common ground with common *acceptance*, a broader attitude that includes belief but also assumption and pretence.³⁴ But basically, on Stalnaker's approach the shared common ground is identified with certain belief-like propositional attitudes of the speakers; so there is no mystery about how altering common ground could also alter attitudes.

Five theoretical models, then, of how pornography and hate speech might work: a speech act model, an argument model, a conditioning model, an imitation model, and a pragmatic model. I give little credence to the argument model,³⁵ but the others each have something interesting and potentially important to offer. Do they all capture part of the story? Perhaps. For present purposes, I am going to place my bets on the pragmatic model.

3. *Problem cases: desire and hate*

There is no mystery then, on the pragmatic approach, about how pornography and hate speech might alter factual and normative beliefs of consumers, in altering the 'conversational score' or 'common ground' shared between speakers and hearers. We

³⁴ Stalnaker, 'Common Ground'. A further caveat involves the issue of pretence in pornography, which may mean that we cannot move from common ground to belief quite so directly. The question of how beliefs about the world can be altered by fiction is another topic of our paper 'Scorekeeping in a Pornographic Language Game'.

can try to say that, even in the case of the fetishized boots, viewers, or ‘hearers’, are *accommodating* to what the material presupposes, namely that the boots are sexy. Only on that assumption does their inclusion in the series make sense. To say that the sexiness of the boots is ‘presupposed’ would give us a change in the conversational score, in Lewis’s terms; a change in the common ground, in Stalnaker’s terms. Hearers, or viewers, take on board the presupposition that boots are sexy, and incorporate that into their beliefs.

But hold on a minute. *Believing* the boots are sexy is one thing. *Finding* them sexy is quite another. How on earth does that change in *desire* come about? There is something missing, in this pragmatic picture of how norms and beliefs alter in response to conversational moves, and how pornography and hate speech shape them. In addition to changing beliefs, pornography and hate speech evidently change the desires of consumers. People who consume pornography come to find desirable things they did not find desirable before. They don’t just believe something about boots: they desire something about boots. People who consume anti-Semitic propaganda don’t just come to believe something about Jews: their desires also change—they want to avoid Jews, or destroy them. It’s not just that consumers come to believe different descriptive or normative propositions. It’s that they come to *want* different things than they did before.

What goes for desire also goes for hate. Hearers don’t just believe differently than they did before, they *feel* differently than they did before. It is no mystery, on the pragmatic approach, how hearers come to believe something about Jews, for example, that good Germans hate Jews. But how do we get from the philosopher’s story about belief acquisition, to these changes in desire and hate?

³⁵ We attend briefly to it in Langton and West, ‘Scorekeeping’.

Evidently the psychological ‘conditioning model’ of how some speech works has no problem dealing with this question, giving us an easy non-rational account of how desire and emotion get changed. It is no mystery how desire gets ‘conditioned’ to a previously neutral ‘stimulus’ that happens to be speech, any more than there is a mystery understanding how Pavlov’s dogs ‘learned’ to salivate when they heard the bell. The pragmatic model, by contrast, gives us an adequate story about how belief change can be achieved, through subtle conversational moves adjusting the ‘common ground’ or ‘score’; but it seems inadequate to the task of addressing change in feeling and desire. Should we just throw up our hands at this point, and cede this territory to the psychologist?

Perhaps we can do a little better than that.

4. An exploratory proposal: the accommodation of desire and hate

I want to propose, in an exploratory spirit, the idea that the phenomenon of accommodation might extend beyond belief—beyond conversational score, and common ground, as originally conceived—to include accommodation of other attitudes, including desire and hatred. My remarks here will inevitably be programmatic. But to convey the general idea: just as a hearer’s belief can spring into being, after the speaker presupposes that belief, so too a hearer’s desire can spring into being, after the speaker presupposes the hearer’s desire; and so too, a hearer’s hatred can spring into being, after the speaker presupposes that hatred. Stalnaker’s common ground can perhaps be extended to include not just common beliefs, and other belief-like attitudes, but common desires, and common feelings, as well. Speakers invite hearers not only to join in a shared belief world, but also a shared desire world, and a shared hate world. I am interested here in the implications of this for pornography and hate speech, but if my

hunches are right, there are pretty clearly some implications for a host of other very ordinary speech situations as well.

Recall that for Stalnaker, it is a desideratum that—

the pragmatic notions developed to explain the linguistic phenomena be notions that help to connect the practice of speech with purposes for which people engage in the practice.³⁶

For Stalnaker the paradigm case, embodying ‘the principal reason for speech’, is where ‘people say things to get other people to come to know things that they didn’t know before’. But there are many other reasons for which people engage in the practice of speech. The gaining of knowledge may be one principal reason for speech. But an alien arriving on earth might be as likely to conclude from his observations that the principal reason for speech was the gaining of money... More generally, a great deal of speech aims, not at getting people to know things they didn’t know before, but at getting them to want things they didn’t want before, and feel things they hadn’t felt before. While our topic here is politically problematic speech, hate speech and pornography, it will readily be seen that the idea extends to a great deal of informal conversation, and presumably much advertising.

Let us see how our pragmatic story might be adapted to say something about the accommodation of desire and hate.

First, a little more thought about accommodation. One can think about the ‘common ground’ or ‘score’ that accommodates the moves speakers make in two importantly different ways: first as an *abstract structure*, analogous to the ‘score’ of a baseball game (which I take to be Lewis’s approach); or as simply the *attitudes* of parties to the conversation, analogous to the beliefs of players and bystanders about the score of the baseball game (which I take to be Stalnaker’s approach). These do not

necessarily compete, and I find it helpful to see the phenomenon of accommodation as occurring at both of these levels. In baseball, a player makes a move. This then alters the abstract score of the game, and alters facts about what is normatively appropriate in the game. These alterations work, in Austin's terms, non-causally, in the way that illocutionary acts work. A player's move does not strictly *cause* the score to change: the score is an abstract structure, whose being is *constituted* by what the player has done. Just as smashing the bottle and saying the right words christens the ship, so hitting a home run changes the score.

As I see it, Lewis's account of 'conversational score' as structure, is tracking change enacted 'straightway', at Austin's illocutionary level ('straightway' is Lewis's word). Then the effects occur afterwards, among them effects on *attitudes* of parties to the game, effects that do not happen 'straightway', but as real time psychological consequences. As I see it, Stalnaker's understanding of 'common ground' as attitude, is tracking change brought about causally, at Austin's perlocutionary level. Bystanders come to believe that the player has hit a home run; they come to believe that the score has changed, and that the facts about what is normatively appropriate in the game have changed accordingly. We should welcome an understanding of accommodation that makes sense of change that occurs at both of these levels: first, abstract and illocutionary; second, attitudinal and perlocutionary.

How does the score-as-abstract-structure interact with the common-ground-as attitude? It might work in the following way. The abstract score can be thought of as containing propositions (among other things). Looking at our earlier anti-Semitic example: a children's story might presuppose that 'Jews often kidnap children'; that 'It is appropriate to hate Jews'; that 'Good Germans hate Jews'; that 'Good Germans

³⁶ Stalnaker, 'Common Ground', p. 703.

avoid Jews'. True, the story is presented as fiction, but as fiction that says something about the world, and says it by presupposing it. The abstract score incorporates the fact-claiming proposition that Jews often kidnap children, the normative proposition that it is appropriate to hate Jews, and the proposition (factual and normative) that good Germans avoid Jews. Then, if the conversation is a successful one, the attitudes of hearers change, just as the attitudes of bystanders change in response to the score of the baseball game. Abstract score accommodates to conversational move; psychological score accommodates to abstract score.³⁷

How do the attitudes of hearers change? Let me make the following suggestion about this might work, i.e. about how accommodation at the abstract level leads to accommodation at the attitudinal level. To insert these claims into the abstract score is to invoke a general *attitudinal appeal* to the hearer: '*Have attitudes that fit this score!*' This appeal may take the form of a quasi-pretence: the way to make the appeal is to go on as if the hearer had the relevant attitude already.³⁸

The most straightforward one will be a *cognitive appeal*: 'Have the belief that fits this score!' To take up an earlier example, this might be: 'Believe that Jews often kidnap children!'; 'Believe it is appropriate to hate Jews!'; 'Believe that good Germans hate Jews!'; and 'Believe that good Germans avoid Jews!' The way a speaker makes these appeals is, often, to go on as if the hearers had these attitudes already. A speaker can invite someone into their belief-world by taking for granted that the hearer is already in that belief-world.

³⁷ These accommodations might come apart, e.g. in a case where a legislator enacts a law, and people fail to believe that he has done so.

³⁸ Stalnaker, 'Common Ground'; Jay David Atlas, 'Presupposition', in Laurence R. Horn and Gregory L. Ward, *The Handbook of Pragmatics* (Wiley Blackwell, 2004) 29-

A psychological accommodation then follows, as a causal effect of the attitudinal appeal. Hearers come to believe that Jews often kidnap children; that it is appropriate to hate Jews; and that good Germans avoid Jews.

Besides a cognitive appeal, there may be appeals to other attitudes; and here we are attempting to extend the phenomenon of accommodation beyond belief. Speech may appeal to desire and to emotion. How it does so has traditionally been a topic for rhetoric, rather than pragmatics; but I see little reason for restricting our philosophical attention to purely cognitive attitudes.

So in addition to cognitive appeal there can be what we may call a *conative appeal*: 'Have the desire that fits this score!' For example, this may be: 'Desire to avoid Jews!' or 'Desire to be rid of Jews!'

Sometimes the conative appeal may be grounded in the cognitive appeal. For a hearer who antecedently desires to avoid kidnapers, the news that Jews are kidnapers can be offered as grounding a desire to avoid Jews. For a hearer who wants to be a 'good German', the news that good Germans avoid Jews can likewise be offered as grounding a desire to avoid Jews.

I also want to suggest that the conative appeal may sometimes be direct, in a way that doesn't rely on antecedent desire. Speech can surely, sometimes, create a new desire directly, through an appeal not depending on what the hearer previously desired. Hume thought of desires as 'original existences', about whose rational origins little can be said; but there seems little doubt that speech is prominent among the many possible wellsprings of desire. We have a multi-billion dollar advertising industry attesting to that fact, advertising which often makes a skilful direct appeal, aiming to

52. I can't here address adequately the ways in which presupposition accommodation involves something like pretence.

create a desire to buy something, independent of anything the hearer might have desired before. As with advertising, perhaps too with anti-Semitic propaganda, there might be a direct appeal, aiming to create a desire to be rid of Jews, independent of anything the hearer might have desired before. And perhaps this direct conative appeal can be made, as in the case of a cognitive appeal, by going on as if the hearer had the desire already. A speaker can invite someone into their desire-world by taking for granted that the hearer is already in that desire-world.

A psychological accommodation then follows, as a causal effect of the attitudinal appeal. Hearers come to desire to avoid Jews.

In addition to cognitive and conative appeal, the abstract score may invoke an *emotional appeal*: 'Have emotions that fit this score!' For our example, this may simply be: 'Hate Jews!' As in the case of conative appeal, sometimes the emotional appeal may be grounded in the cognitive appeal. For a hearer who is antecedently disposed to hate kidnappers, the factual news that Jews are kidnappers can be offered as grounding a hatred of Jews. For a hearer disposed to feel what he believes it's appropriate to feel, the normative news that 'It is appropriate to hate Jews' can be offered as grounding a hatred of Jews. For a hearer disposed to hate what he believes good Germans hate, the news that good Germans hate Jews might likewise be offered as grounding a hatred of Jews.

But again I want to suggest that the emotional appeal may sometimes be more direct, in a way that doesn't rely on antecedent attitudes. Speech can surely, sometimes, create a new emotion directly, through an appeal that does not depend on the hearer's antecedent attitudes, just as the frenzied, hateful rantings of *Der Stürmer* sometimes aimed to do. And, as for the cognitive and conative attitudes, perhaps this can sometimes be done by going on as if the hearer has the relevant attitude already. A

speaker can invite someone into their hate-world by taking for granted that they are already in that hate-world.

A psychological accommodation then follows, as a causal effect of the attitudinal appeal. Hearers come to hate Jews.

5. Concluding remarks

I have tried to suggest how the phenomenon of accommodation might be extended beyond belief, to take in attitudes that are of central importance to our political thinking about hate speech and pornography.³⁹ These extensions could be of interest to our thinking about speech in more mundane contexts too. I am painfully aware that these are mere gestures in a direction where I would like to see some more action; but something in this direction is, I think, sorely needed.

As political philosophers, and philosophers of language too, we tend to be god-like in our habit of creating man in our own image: of creating human beings who match a philosophical ideal, rather than a social reality. We create paradigm political agents, whose chief interest in speech is a search for truth. We create paradigm speakers, whose chief interest in conversation is the spread of knowledge. But if we

³⁹Other ideas in the literature which may provide some help here include, perhaps, Paul Portner's idea that common ground incorporates 'to do lists', in the case of imperatives, 'The Semantics of Imperatives within a Theory of Clause Types', in K. Watanabe and R. Young (eds.), *Proceedings of Semantics and Linguistic Theory* 14 (2004), CLC Publications, Ithaca, NY; see also Dilip Ninan, 'Two Puzzles about Deontic Necessity', in Gajewski, Hacquard, Nickel, and Yalcin (eds.), *New Work on Modality: MIT Working Papers in Linguistics* 51 (2005) 149-178; and Christopher Peacocke's idea that agents can build up together a 'mutually attended world' that includes facts and norms that merit certain reactions, 'Joint Attention: Its Nature, Reflexivity, and Relation to Common Knowledge', ch. 14 of *Joint Attention: Communication and Other Minds*, eds. N. Eilan, C. Hoerl, T. McCormack, J. Roessler (Oxford University Press, 2005).

want notions that, as Stalnaker put it, ‘help to connect the practice of speech’ with ‘the purposes for which people engage in the practice’, then let us try looking to the conversational score, and the common ground, to track whatever attitudes—whether beliefs, or desires, or feelings—are central to the kind of speech it is, in the all too messy world we live in.