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Founded in 2019, the *Undergraduate Philosophy Journal of Australasia* (UPJA) is the first undergraduate philosophy journal run by students from the Australasian region. We publish two volumes and host two virtual conferences per year; one mid-year and another at the end of the year. Our call for papers for each volume open roughly in April and September respectively. We aim to be an inclusive and diverse journal that welcomes submissions on any philosophical topic attempting to make a substantive contribution to contemporary debate. Submissions from women and other members of underrepresented groups in philosophy, including those for whom English is not their first language, are particularly encouraged.

 Undergraduate Philosophy Journal of Australasia – UPJA

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EDITORS' NOTE

2020 has been a year of change; so too for UPJA. We've grown the editorial team from two members to four, decided to publish two volumes a year, introduced a new section to the journal – Voices from the Region and Beyond – and recently held our inaugural Virtual Conference for Undergraduate Philosophy.

Our level of engagement for this volume far surpassed that of Volume 1. We received 75 submissions, a roughly 150% increase from the previous volume, from authors in 49 different institutions across 13 countries. We also had 22 excellent student referees from a range of institutions in Australasia. We are particularly proud of the fact that 57% percent of those who submitted a paper or refereed for us identify as a member of an underrepresented group in philosophy.

We set up the journal with the hope that it will become a platform for undergraduate papers of the highest quality. To that end, we uphold a rigorous standard and commit to publishing only the best papers. With an acceptance rate of 4%, we are confident that the three papers published in this volume represent some of the best work done by undergraduate students worldwide. On the other hand, we also strive to make the journal as accessible as possible by providing feedback to a vast majority of the submissions. We are proud of the fact that although only 3 out of the 75 submissions were selected for publication, 60 of them received detailed and constructive referee reports.

Two of the three papers in this volume are on social philosophy, and the third on Chinese philosophy. In *Pornography and Other Recorded Speech Acts*, Jasper Friedrich (University of Aberdeen) builds an account of recorded speech acts to defend Rae Langton's application of Speech Act Theory to pornography against an objection from Jennifer Saul. In *Sexual Desire and Sexual Perversion*, Kristina Dukoski (University of Toronto) provides new analyses of those two titular concepts, both of which focus on the reciprocal status of potential 'pleasant sexual partners' as agential beings. And in *Reconceptualising Confucian Freedom: The Role of Xin in Mediation*, Ang Wei Xiang (Nanyang Technological University) challenges Li Chenyang's approach to Confucian freedom, arguing that we should pay greater attention to the act of choosing itself, rather than whether one chooses the good.

We are delighted to announce the winners of our two prizes for Volume 2. Best Paper goes to Jasper Friedrich, and Best Paper (Member of an Underrepresented Group in Philosophy) goes to Kristina Dukoski. Congratulations to you both! These prizes are generously funded by the Australasian Association of Philosophy (AAP).

AAP's continued support for the journal has been invaluable. We are grateful that AAP has agreed to increase its funding for us this year and are very excited that one of our editors will soon be on its Undergraduate Committee. Our partnership with Minorities and Philosophy also complements our efforts to promote inclusivity and diversity. We'd like to acknowledge all the support we have received from our faculty advisors, Associate Professor Stephanie Collins (Australian Catholic University), Assistant Professor Sandra Leonie Field (Yale-NUS), and Dr Carolyn Mason (University of Canterbury).

The people we are most grateful to are our Associate Editors, Rory Collins and Anita Pillai. Although nominally we have been the Editors-in-Chief, the effort in producing

this volume was equally shared. We feel very lucky to have been able to work with people as committed to the ongoing success of UPJA as we are. With their passionate commitment, philosophical rigour, and organisational prowess, we're more than confident that the journal is in good hands going forward.

As co-founders, we are fortunate to have interacted with a wide range of very talented individuals through UPJA. We'd like to thank everyone who has engaged with the journal since its inception last year. It's been a pleasure, and we very much look forward to seeing how future editors will take the journal to new heights, and to reading Volume 3 and beyond!

If you are interested in the journal and want to get involved, please sign up to our mailing list. You can also find more information about us on our Facebook page and website.

Kida Lin and Matthew Wiseman

August 2020

VOICES FROM THE REGION AND BEYOND

“WHAT IS PHILOSOPHY?”

Philosophy is questioning answers you think can't be questioned, and answering questions you think can't be answered.

James Hall, University of Sydney

A discipline that gives rise to a new area of study when sufficient knowledge and/or a specialized methodology is accumulated in one of its sub-fields, all the while remaining relevant by asking questions often left unturned by the new field.

Mark Goh Xin Hong, National University of Singapore

UPJA: What is philosophy?

Socrates: Define philosophy.

UPJA: That's what we're asking you to do.

Socrates: Ahhhhh, then it is defining philosophy. Many thanks, I was ignorant and have been enlightened. Though, tell me, I'm not now defining philosophy, yet am I not still providing an answer, by demonstration, of what it is?

Stephen Rowe, University of Canterbury

The process of answering a question you already know the answer to – and getting it wrong.

Leon Guest, University of Aberdeen

Philosophy is.

Is Philosophy it?

It is, Philosophy.

Skander Manaa, Lancaster University

Philosophy is a bit like recycling: it's really important, but for some reason people don't care enough to do it.

Kyle van Oosterum, University of St Andrews

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* Winner of Best Paper

† Winner of Best Paper (Member of an Underrepresented Group in Philosophy)

Pornography and Other Recorded Speech Acts

JASPER FRIEDRICH*

UNIVERSITY OF ABERDEEN

Abstract

Rae Langton has argued, using Speech Act Theory, that pornography subordinates women in virtue of its illocutionary force and should therefore not be protected by freedom of speech. Jennifer Saul, however, has objected that pornographic works in themselves do not have illocutionary force – only individual viewings or showings of pornography can be conceptualised as speech acts. In this paper, I consider how Saul’s argument generalises to all recorded content (writing, films, images, etc.) and construct an account of recorded speech acts that saves Langton’s arguments from Saul’s criticism. I show that content such as films, magazines, etc. does have illocutionary force over and above any individual act of consuming this content. Further, I argue that any uptake that is reasonably secured in any intended context of consumption is relevant to determining the illocutionary force of recorded speech acts. Beyond lending credence to Langton’s arguments, this account allows us to hold producers of discriminatory content to account for what they do.

1. Introduction

Speech Act Theory, with its principal insight that saying something is to do something, has reinvigorated debates on free speech. After all, if speech is an act, why should it not face the same legal restrictions as other acts? One significant debate has surrounded pornography and whether its production and dissemination should be protected by free speech. If pornographic works, Rae Langton has argued, are a type of speech, they can be analysed as speech acts.¹ By using Speech Act Theory, she has lent support to feminist legal scholar Catharine MacKinnon’s claims that pornographic speech acts not only *depict* or even *cause* subordination of women, but *constitute* subordination.²

Jennifer Saul, however, has questioned Langton’s treatment of pornography as speech acts.³ A pornographic work in itself is not an act – only particular showings or

* Jasper has just finished his undergraduate studies with joint honours in International Relations and Linguistics at the University of Aberdeen. He is interested in philosophy of language, social and political theory and above all the intersection between these fields.

¹ Langton 1993.

² MacKinnon 1983.

³ Saul 2006.

viewings of it can be said to be acts, and, accordingly, Speech Act Theory can be applied to the latter, but not the former. This is an argument very similar to those made by the critics of MacKinnon whom Langton is replying to: “pornography can be used to facilitate [...] subordination”, claims William Parent, but “it is not easy to understand how books, magazines, or films can by themselves ‘place a person into the class of intrinsic moral inferiors’”.⁴

Such arguments, of course, generalise to everything we can call ‘recorded speech acts’ – where ‘recorded’ does not imply video recording, but includes anything recorded in writing, audio, or other media.⁵ And if only individual acts of consuming recorded content, and not the content itself, can be said to discriminate or subordinate, it becomes harder to hold content producers accountable. This is a highly relevant issue in a time where discriminating rhetoric is on the rise and where online communication – in the form of video, images, and text – plays a growing role in the public sphere.

In this paper, I defend Langton’s application of Speech Act Theory to recorded material, such as pornography, and build an account of recorded speech acts. I argue that films, written works, etc. have *illocutionary force* over and above any particular act of viewing or reading. My point here is not primarily to intervene in the by now extensive literature in feminist philosophy on pornography, much of which has moved away from the use of Speech Act Theory.⁶ Rather, I try to show how Speech Act Theory, *contra* Saul, can be applied to recorded content and not only acts of consuming content. My main arguments will be about the nature of recorded speech acts in general and how we can apply Speech Act Theory to analyse mediated communication – whether or not any specific recorded materials, including pornography, *actually* discriminate against anyone is an empirical question which I leave open.

The structure of the article is as follows: first, I briefly outline Langton’s arguments and Saul’s attack on them and then show how Saul’s arguments generalise to *any* recorded speech act. The next section then criticises Saul’s treatment of recorded speech acts. I argue that her model relies on a confusion between *rhetic* and *phatic* acts, and once this distinction is clarified we can see that illocutionary force is properly ascribed to a work itself, and not the act of viewing or reading it. Finally, the penultimate section explores how we can take uptake into account when determining a recorded speech act’s illocutionary force while recognising Saul’s point that this uptake may vary widely. In this regard, I argue, recorded speech acts differ much less from their spoken equivalents than one might think, and any uptake that is reasonably secured in any *intended* context should be counted towards the illocutionary force of an utterance.

2. Subordinating Speech Acts

Austin’s Speech Act Theory was a response to what he called the “true/false fetish” in the philosophy of language.⁷ That is, he wanted to do away with the idea, dominant

⁴ Parent 1990, p. 208.

⁵ Saul 2006, p. 236.

⁶ Finlayson 2014.

⁷ Austin 1975, p. 150.

in analytic philosophy, that language is to be analysed in terms of truth-conditions and that statements are to be evaluated on whether they are true or false. The strongest or most obvious challenge to the true/false approach to language are those instances when we use speech not to state facts, but to accomplish conventionalised acts: for instance, saying 'I do' in the context of a marriage ceremony.⁸ There are three distinct senses in which such a use of language is an 'act': there is the act of saying the specific words 'I' and 'do', which Austin terms the *locutionary* act; then there is the act of assenting to enter into marriage – the *illocutionary* act; and finally there is the act of causing certain consequences – in the context of a wedding ceremony, saying 'I do not' would probably be to shock and anger many people.⁹ From this point of view, the question is not whether a given utterance is true or false, but whether it is *felicitous*, i.e., whether it succeeds in doing what it is meant to do. This depends largely on social conventions: saying 'I do' can be an act of marrying, because this has been established by social convention. On this view, speech is clearly not a private, but eminently social act. Whether I succeed in carrying out a certain speech act depends on whether others recognise and accept it as such; that is, whether they give my act *uptake*. If I stage a wedding ceremony and say 'I do' at the appropriate time, but no one (including my would-be partner) acts as if I have married anyone, there is no real sense in which I *have* married.

It is not hard to see how Austin's arguments could change debates around free speech. Those who defend absolute free speech usually employ a dichotomy between speech and action: there are limits to what you can *do* to other people – e.g., you cannot harm them – but there are no limits to what you can *say*. This distinction breaks down if to say something *is* to do something beyond the trivial sense of the locutionary act. Indeed, if speaking is *doing* something, rather than just depicting something, then surely speaking might also be a subordinating or discriminatory act. A history lesson about how Jews and other minorities were treated in Hitler's Germany will depict discrimination and subordination; its *locutionary content* will refer to acts of subordination. But, for example, Adolf Hitler's own orders to carry out genocidal acts were speech acts that did not merely *depict* discrimination, they were in themselves illocutionary acts of discrimination and subordination. Langton gives a further example of the utterance 'Whites only' which "orders blacks away, welcomes whites, permits whites to act in a discriminatory way towards blacks. It subordinates blacks".¹⁰ Two of the primary ways in which speech can subordinate is by *ranking* people as inferior and by *legitimizing* discriminatory and/or violent behaviour towards them. So, the illocution 'Whites only' ranks blacks as inferior and legitimates white racist behaviour, for example.¹¹ These types of speech acts are among what Austin calls *verdictives*, judgments about facts and values, and *exercitives*, the exercise of power or influence (e.g., ordering, appointing, advising, etc.).¹² Intuitively, it seems obvious that such acts of judging, appraising, ordering, or advising can be made in speech as well as in recorded form, as writing or as video – but as we shall see, this claim is not as straightforward as it appears.

⁸ Ibid., p. 5.

⁹ Austin 1975, pp. 94-107.

¹⁰ Langton 1993, p. 303.

¹¹ Ibid., pp. 303-04.

¹² Austin 1975, pp. 150-51.

It is not obvious that pornography is speech, and Langton never defended this assumption in detail. Her main reason for treating it as such was precisely because she was intervening in a debate where defendants of pornography claimed that it was protected by free speech. She therefore accepted the premise that pornography is speech and went on to undermine the free speech defence using Austin's theories. Now, it is clear that pornography (in the form of videos, recordings, images, or text) is not speech in the literal, everyday sense of the word; but my aim in this article will be to defend the idea that recorded materials, including pornography, can be analysed as illocutionary acts in the same way as spoken speech acts.

It is uncontroversial that pornography sometimes depicts the subordination of women. But MacKinnon and Langton make the claim that pornography too is somewhat like the illocutionary acts of subordination described above¹³: it unjustly ranks women as sex objects, and it legitimates sexual violence against women. Of course, pornography differs in some ways from the paradigm cases of subordinating speech in that it does not *explicitly* state, say, 'Women should be treated as sex objects'. Nevertheless, in depicting degradation and subordination of women as something desirable (to both men and women), we may say that it *implicitly* legitimates sexual violence and ranks women as sex objects.¹⁴ The details – and the plausibility – of Langton's specific critique of pornography are not my main concern here. What matters for my purposes is her claim that speech acts can have a subordinating illocutionary force and that we can, theoretically, ascribe such a force to videos, magazines, and other recorded material.

Needless to say, Langton's claims are not uncontroversial. One powerful critique is due to Saul.¹⁵ Saul does not directly deny that pornography subordinates women, rather, her main point is that applying Speech Act Theory to pornography does not get you this conclusion. She makes the point by exploiting what is perhaps the weakest point in Langton's original argument: her lack of justification for treating pornographic materials as speech acts. Saul points out that pornography, if it is a speech act, belongs to the special category of 'recorded speech acts'.¹⁶ In order to demonstrate how recorded speech acts may work, she constructs an example of a woman, Ethel, who lives in a very strict library where she can only communicate with written signs. Suppose Ethel makes a sign saying 'I do', which she then uses for various purposes throughout her time at the library. One day, she promises to return her books on time; another she may get married in a rare example of a library wedding. The illocutionary force of the sign clearly varies depending on context – we simply cannot attribute any illocutionary force to the sign outside of the particular context where it is put to use.

By analogy, Saul argues, the same goes for pornography: like Ethel's sign, a work of pornography has no illocutionary force in itself. The only candidates for pornographic

¹³ MacKinnon 1983; Langton 1993.

¹⁴ The implicit/explicit distinction is not one Langton makes, but I think it is coherent with her argument. She admits that pornography "falls short of the paradigm case" for subordinating illocutions, citing Austin's point that an ambiguous speech act often needs "to have a 'construction' put on it by judges". Austin makes a distinction between explicit performatives such as 'I order you to leave' or implicit performatives such as 'There's the door', which may, depending on the circumstances, have the same illocutionary force. See Langton 1993, p. 308 and Austin 1975, pp. 32, 61, 115.

¹⁵ Saul 2006.

¹⁶ *Ibid.*, p. 236.

speech acts would be specific pornographic ‘utterances’ in context, occasions where a pornographic work is put to use. What, then, is an ‘utterance’ of pornography? Saul considers two options: makings and viewings of pornography. She dismisses the first option, because for an act to have illocutionary force someone must give it uptake and at the time of production of pornography there is no recipient of the would-be speech act. She concludes, then, that individual viewings (or showings) of pornography must constitute the ‘utterance’ and the context in which it is received.¹⁷

But this creates grave difficulties for Langton’s argument. If pornographic speech acts are individual viewings, it is much harder to argue that most, or even many, pornographic speech acts are subordinating. This is not necessarily an impossible claim to make, but I agree with Saul that it seems implausible to claim that most individual viewings of pornography constitute subordination given how widespread use of pornography is, including among feminists.¹⁸ What is more – and this is a point which Saul does not stress herself – this account moves the responsibility away from producers of pornography to individual viewers or showers. If the illocutionary force does not lie in the material produced, but merely in how it is used, the producer cannot be said to subordinate women, but at most to cause ‘users’ of their pornography to subordinate women (Saul admits that her approach cannot be used to condemn “any particular film or magazine”, but only “to justify a variety of policies designed to affect the contexts in which pornography is viewed”).¹⁹ The point of Langton’s argument was, on the contrary, that pornographers can and should be held to account for the illocutionary force of what they produce: beyond *causing* or *depicting* subordination, part of what producers of pornography do *is to subordinate women* – though this does not preclude *also* holding individual viewers or showers responsible for their use of pornography. Thus, I agree with Saul that Langton’s argument, to be plausible, needs pornographic works – not individual viewings – to be speech acts. But as I will argue, this is not a difficult claim to make if we consider more closely the nature of recorded speech acts.

Importantly, Saul’s argument, while being directed specifically at Langton’s account of pornography, generalises to all recorded speech acts. If we cannot assign illocutionary force to a film or written work, but only to individual viewings or readings of the work, producers of such content virtually have *carte blanche* to publish anything they like – for the problem is always with the individuals who view, read, or show the content.²⁰ Take this example: a political party releases a video ad online which is highly critical of immigration from a certain country. We might want to say that the ad is an act of discrimination against people from said country, that not only

¹⁷ Ibid., pp. 236-38. The disanalogy with the example of Ethel’s note may already be clear to some: if someone simply “views” Ethel’s note without her being present, there is no way it could constitute a speech act. The next section will explore where Saul’s analogy goes wrong.

¹⁸ As two anonymous reviewers pointed out, there are of course debates around the extent to which watching porn is consistent with feminism and the ways in which the oppressed can be complicit in their own subordination. The point, however, is that many feminists engage with pornography in a particularly reflective manner which, in my view, makes it unlikely that these people are ‘complicit’ with patriarchy (for an example, see the discussion of one feminist porn site at the end of section 4).

¹⁹ Saul 2006, p. 246.

²⁰ I do not think that Saul is committed to giving *carte blanche* to those who wish to publish discriminatory material, but it follows from her approach to Speech Act Theory. Of course, one could still hold people to account for the foreseeable adverse effects of what they have published, but the act of creating the content could not be said to be in itself a discriminating act – see below.

does the ad have negative effects, but indeed to discriminate and subordinate is part of what the video *does*. However, just as with pornography, it is clear that this video will be viewed in many different contexts. Some viewers might simply see it as a blatant attempt at fearmongering and remain unmoved; others might see it as no more than a principled stance against any migration whatsoever without implications of inferiority of people from exactly that country. Someone might show the video to their friend in order to convince them how irresponsible the party that released it is – if, as Saul claims, the speech act is the act of showing the video, this particular showing of the video certainly would not seem to subordinate anyone (the same issues would arise if the ad were image or text-based, of course).

Of course, one could still try to hold producers accountable for any foreseeable adverse effects of their content, but this would raise a number of problems. First, it takes us back to square one in the debate with those espousing a free speech defence of such content. Second, it would be too easy for producers to argue that they cannot be held responsible for everything users do with their content. And third, it might inadvertently open the door for certain kinds of victim blaming: if someone gets abused because they posted a controversial statement online, for instance, they would be said to be responsible for their own abuse if this abuse was foreseeable. If we want to be able to avoid these problems and use Speech Act Theory to make arguments about discriminatory speech in the media and online at all, the questions raised by Saul need to be addressed. This is the task of the rest of this article.

3. Recorded Speech Acts

As mentioned, Saul relies on an analogy between pornographic works and Ethel's note for her argument that only specific viewings of a film constitute speech acts. Since, as Saul admits, recorded speech acts "are likely to be especially complicated to analyse",²¹ it should not surprise us if this one analogy does not adequately capture their complexity. To assess whether pornography, films, or even news articles can usefully be seen as speech acts, we need a better understanding of recorded speech acts. I will argue that a closer look at the details of Speech Act Theory shows Ethel's note not to be a recorded speech act at all – so Saul's analogy and her entire argument collapses.

Describing spoken speech acts, J. L. Austin distinguishes between *phatic* and *rhetic* acts.²² The former is the act of simply uttering words, "i.e. noises of certain types, belonging to and as belonging to, a certain vocabulary". The latter is an act of using these words with a "more-or-less definite sense and reference" and an illocutionary force. (1) below is a report of a phatic act, and (2) is a report of a rhetic act:

(1) "He said 'Is it in Oxford or Cambridge?'"

(2) "He asked whether it was in Oxford or Cambridge."²³

²¹ Saul 2006, p. 236.

²² Austin 1975, p. 95.

²³ Ibid.

Austin does not discuss the distinction as applied to written or recorded speech acts, but we may assume that an analogous distinction exists.²⁴ Thus, I can say of the same written invitation, 'She wrote "RSVP"' or 'She asked that we reply to her invitation' – with the former reporting a phatic and the latter a rhetic (and illocutionary) act. What about Ethel's note? We certainly can say 'Ethel wrote "I do"', but we cannot say 'Ethel wrote that she did'. Note that even when describing a specific context where Ethel used the note to communicate something or other, we would not naturally say that she *wrote* that she did so and so. In writing her note, Ethel performed a phatic act, but no rhetic or illocutionary act.

A felicitous (spoken) speech act requires that someone gives my act uptake. If I try to give an order, but no one understands what I am saying or everyone takes me to be advising them what to do, rather than ordering, I have failed to order – my attempt at an order is infelicitous.²⁵ What differentiates recorded from non-recorded speech acts is, quite simply, that their context(s) of uptake can be temporally and physically removed from their context of production. If I record a video urging politicians to fight climate change, I hope that those who view it in my absence will identify its illocutionary force as that of an exhortation. For this to work, a number of felicity conditions need to obtain: my recipient has to understand the language I use, they cannot think that I am acting out a role, my recipient's computer must be able to play the video recording, etc.²⁶ Ethel's note, however, cannot gain uptake in her absence – no one coming across it in the library will be able to take it as an admission, an agreement, or anything else.

What, then, is Ethel's written note? It is no more than a tool which Ethel has made to be used in future speech acts. Wittgenstein imagines a language game where people communicate in part by showing each other colour patches.²⁷ Surely, in such a language game, *showing* someone a colour patch is a speech act, but the colour patch itself is not a recorded speech act (a recording of someone showing a patch *would* be a recorded speech act). Or imagine that instead of written signs Ethel communicates by combining Scrabble letters. We would not say that the individual Scrabble pieces are in any way recorded speech acts – nevertheless, Ethel would be perfectly able to perform speech acts using these letters as tools. The mere fact that Ethel's sign contains fully formed words does not make it any different, nor does the fact that it can be used

²⁴ Saul herself actually makes a similar analogy. She distinguishes between "the speech act [...] of uttering the sentence (or series of words)" and "the sentence (or series of words) itself" (2006, p. 235) and then claims (wrongly, I argue) that recorded speech acts are equivalent to the sentence, and a particular viewing/reading/use of it is like the uttering of a sentence. This distinction is analogous to the phatic/rhetic distinction in the sense that two uses of the same sentence will be two identical phatic acts, whereas Saul highlights that those two uses of the same sentence could count as very different speech acts, i.e., rhetic acts. See Saul 2006, p. 235. Similar distinctions are made by Strawson between a sentence and the use or utterance of a sentence, and Russian philosopher Mikhail Bakhtin between sentences as *units of language* and utterances as *units of speech*. Interestingly, Bakhtin explicitly includes everything from short verbal interjections to letters and novels in the category of utterances. See Strawson 1950, pp. 320-44 and Bakhtin 1986, p. 62.

²⁵ Austin 1975, pp. 115-16.

²⁶ The felicity conditions for recorded speech acts would be analogous to, but not identical with, the felicity conditions required for any spoken speech act to succeed. For instance, the material conditions that must be met for recorded speech acts – ink being readable, a video playing correctly – are analogous to what Searle for spoken speech acts identifies as "normal input and output conditions" such as the speaker and hearer being able to hear one other. See Searle 2001, pp. 141-42.

²⁷ Wittgenstein 2001, p. 5.

on its own without any additional signs (even a single Scrabble letter could be used to constitute an utterance on its own: 'Who stole the books?' 'I').

I believe that the confusion arises because the note looks like a recorded speech act; written texts usually *do* constitute recorded speech acts. Indeed, under other circumstances, the exact same note would be a speech act. Imagine that Ethel receives a letter asking her 'Do you agree to such and such terms and conditions?' and writes a letter back containing only the two words 'I do'. This time we would be able to say 'Ethel wrote that she did agree to the terms and conditions'; this time Ethel performed a rhetic and illocutionary act.

How does the rhetic/phatic distinction apply to something like pornographic movies? Movies (including pornographic ones) have a narrative,²⁸ and I can therefore say 'This movie told the story of a person who...' reporting on a rhetic act. The phatic act would consist simply in the combination of certain sounds and images that make up the movie – and I could (tediously) report on the phatic act by describing it scene for scene. Likewise, a TV ad urging me to vote can be described as a rhetic act, 'It urged me to vote', or as a phatic act: 'It featured the word "Vote" in big letters on a black background, and then faded into a video of...'. The key is that an illocutionary force can be identified in the speaker's absence – this is, of course, exactly what feminists like MacKinnon and Langton are doing with pornography when they say that it subordinates women. Naturally, one can also *misidentify* the illocutionary force of a speech act and it is often contestable ('She ordered us to do it!' 'No, it was merely a request'). However, if pornographic works were merely phatic acts like Ethel's sign, we should not even be able to have a discussion about their illocutionary force – even if Ethel had used her sign to say '*I do* consider women inferior to men', no one could protest this simply on the basis of having read the sign out of context.

One might still worry, as indeed Saul does,²⁹ whether it is not a category mistake to identify an object (e.g., a magazine or film) as an event (a certain type of act).³⁰ This requires us to be very clear about what is meant when we say that any recorded material *is* a speech act. Unfortunately, Langton is not entirely clear on this issue. One way of reading her argument is that the physical objects that constitute pornography are speech acts – this would clearly be false in the same way that it would be false to claim that the soundwaves of my speech are actions. My interpretation of Langton is a different one: *strictly speaking*, a recorded speech act is an event that includes the production *and* consumption of recorded material, just like spoken speech acts include the production and reception of physical sound waves. But the main point here is that

²⁸ Having a narrative is a sufficient, but not necessary condition for rhetic acts (a straightforward order does not have a narrative, for instance). For simplicity, I restrict my argument here to the type of pornography that is produced in a studio with actors and a script. No matter how much they may lack anything that could be described as a classical storyline, these movies will have a narrative; even a movie that depicts nothing else than a sexual encounter between two people is a mini-narrative – just like I can narrate an experience of a sexual encounter verbally. If we were to consider amateur pornography, movies or images that are sometimes illegally recorded and published without the consent of all parties involved, it becomes much more complicated to argue that there is an illocutionary force. It is sufficient for my purposes to argue that the former type of pornography has illocutionary force, and I leave unanswered the question of whether this is true for *all* pornography.

²⁹ Saul 2006, p. 230.

³⁰ I am grateful to an anonymous reviewer for pressing me to further clarify this point.

the physical (or digital) material *carries* an illocutionary force,³¹ and in this sense it is not strange to speak of recorded material as if it were an act. One may point to a letter, for instance, and say ‘This is an order’, an order being a kind of speech act. This does not mean that the physical piece of paper is literally an act, but that the physical object embodies, for the moment, said act (it may not embody this act forever: if wine is spilt on the paper so it becomes unreadable, the paper still exists, but it hardly any longer *is* an order).

4. Recorded Speech Acts, Uptake, and Illocutionary Force

I have argued that Saul’s account of recorded speech acts gets things wrong, but one of her main points still stands: pornography and other recorded speech acts are viewed/read in a variety of different contexts where the uptake might differ considerably. Given that uptake plays an important role in determining the illocutionary force of an utterance, how are we to identify this force for recorded speech acts? In this section, I will sketch an answer to this question that retains Saul’s insight about variation in uptake and context but is still compatible with Langton’s arguments. First, I will introduce a distinction between intended and unintended contexts and argue that we only ought to take the former into account. Then, I will argue that the remaining variation is not a problem for Langton’s argument or for my account of recorded speech acts.

One reaction to Saul could of course be to claim that only the intended uptake matters. Indeed, some versions of Speech Act Theory stress in a Gricean way that the illocutionary force of an utterance must standardly be “intended to be recognized as so intended”.³² On this interpretation of illocutionary acts, we would only be able to say that pornography subordinates women if the producers intend to do so and, moreover, intend this intention to be plain. But speech that legitimates violence and dehumanises people is rarely so overt; it tends to masquerade as something innocuous. Further, Langton precisely does *not* want to argue that pornographers intend to subordinate women, but that their speech acts are subordinating *regardless of their intentions*.³³ So, the version of Speech Act Theory that Langton needs for her argument is one where context and uptake can determine illocutionary force independently of the intended force: sometimes “the context determines the uptake secured, which in turn determines the illocution performed”.³⁴

So how do we reconcile this with Saul’s point that uptake is by no means uniform? Which uptake counts? It has been argued that the illocutionary force of a recorded speech act, such as pornography, is determined by the intended *context* of decoding,

³¹ As one anonymous reviewer points out, one could of course infer two different conclusions from my claim that recorded material carries illocutionary force: either they are speech acts, or things other than speech acts can have an illocutionary force. To my mind, this is a question of terminology, not substance. I use the term ‘(recorded) speech act’ because illocutionary force is a term of Speech Act Theory, and my aim is to show the usefulness of applying Speech Act Theory to the analysis of recorded material – if one prefers a different terminology because recorded material is not strictly speaking ‘speech’, it makes no difference to my argument.

³² Strawson 1964, p. 457.

³³ Langton 1993, p. 313.

³⁴ *Ibid.*, p. 301.

i.e., the pornographers' intended context of viewing.³⁵ Yet, even the intended context is by no means uniform for pornography (it is likely almost any context in which anyone is willing to pay for the content).³⁶ But distinguishing between intended and unintended contexts has immediate advantages. For example, Saul mentions that pornographic clips may be shown as part of a talk by a feminist who opposes pornography and form part of an argument against pornography – this is clearly not among the pornographers' intended contexts.³⁷ Further, Langton gives the example of Linda Marchiano who wrote an autobiography about her involvement in the pornography industry as a protest against how horribly she was treated. Despite its being meant as a protest *against* pornography, the book was itself treated as pornography by some – in some contexts the uptake was one of a pornographic speech act. Langton uses the example to illustrate how pornography silences women by making them unable to perform speech acts such as protesting, but she does not comment on how we can avoid attributing a subordinating speech act to Marchiano herself.³⁸ The answer, it seems, is clear: those contexts where the uptake is one of pornography are clearly not among the contexts intended by Marchiano. The rhetic/phatic distinction also helps us here: someone could conceivably have produced essentially the same text *as* pornography, the same phatic act, but the illocutionary and rhetic act would have been one of legitimating such treatment, rather than protesting it as in Marchiano's case.

But what about the remaining variation in the contexts where pornography is consumed? Some (including some feminists) might watch it knowing that it is all staged, that it deliberately explores taboos, and that none of it should be imitated without the explicit informed consent of all parties involved. Others (most problematically younger viewers) may watch it hoping to learn what sex should be like – these are the cases that worry Langton and many others.³⁹ I would suggest that the variation is not problematic for Langton's argument or for my account of recorded speech acts; some speech acts, such as a personal letter, have a specific intended recipient and context, while others, such as an open letter, are meant to carry their illocutionary force across a wide range of different contexts and recipients. Indeed, recorded speech acts do not differ qualitatively from spoken speech acts on this point.

Insofar as we include in what we call 'context' the recipient and their relationship to the speaker, *any* speech act has as many different contexts of uptake as it has recipients. I may tell a group of people 'Shut the door', and some might take it as an order, others as advice – just like an email could be taken by some recipients as an order, and by others as advice. Or let us take an example of a potentially subordinating speech act: say, a politician, at a rally, describes at length crimes committed by immigrants. Some in the audience might take this speech as legitimating violence against immigrants; others might understand it merely as advice to enact policies that improve immigrants' socioeconomic status.

³⁵ Bianchi 2008 makes this argument drawing on work on indexicals by Predelli 1998.

³⁶ Mikkola 2008.

³⁷ In fact, this situation should probably not be analysed as the *use* of the pornographic work to make a statement, but rather as a *mention*. This is a point that Saul acknowledges could be made, and on my account of recorded speech acts it becomes even more plausible because, unlike Saul, I do not consider individual viewings of pornography speech acts. See Saul 2006, p. 238.

³⁸ Langton 1993, pp. 321-22.

³⁹ *Ibid.*, p. 312; Langton 2017.

So, the ‘problem’ of diverse uptake potentially besets all speech acts, not just recorded ones. Let us reconsider Saul’s argument in this light. She argues that a “context-sensitive speech act approach” cannot be used to condemn “any particular film or magazine” unless, perhaps, we can argue that all or at least most of its viewings/readings are ones where the uptake or effect suggests that it subordinates.⁴⁰ Is this still the case now that we have shown that the film or magazine itself has illocutionary force over and above individual viewings/readings? Take, again, the politicians’ speech. If the speech is such that *some* people, even a minority, could *reasonably* (I deliberately leave this term vague) take it to legitimate violence and rank immigrants as inferior, I believe we could and should ascribe such illocutions to her. Having legitimated violence in the eyes of some is still having legitimated violence. It needs emphasising that this uptake needs to be reasonable and obtained in an intended context. For example, if someone takes sober criticism of a politician’s voting record as legitimating violence against them, this is not reasonable – but no doubt many (or most) cases will be arguable and the distinction is a fuzzy one.⁴¹ We also need to carefully distinguish cases where the uptake is such that the speech act may be said to *legitimate* violence (or otherwise subordinate qua its illocutionary force) from cases where the speech ‘merely’ *causes* violence – say a feminist makes a speech defending women’s rights, but this causes a backlash from angry conservatives and encourages them to subordinate women even more. In sum, it is coherent to claim that a speech act, such as a particular pornographic film, has the illocutionary force of subordination without being committed to the claim that all or most viewers take it to be subordinating – whether or not it *actually* subordinates is always a matter of argument, but the claim is coherent.

So, this approach, while rejecting Saul’s central claims, still retains some of the advantages of her focus on contexts. On my account of recorded speech acts, we can recognise that not every instance (perhaps not even the majority of instances) of someone watching pornography is in a context where it subordinates, without concluding that such pornographic speech acts cannot have the illocutionary force of subordination. At the same time, we can use this account to argue that not *all* kinds of pornography are subordinating. One feminist porn site, for instance, displays videos that explore BDSM sex while also displaying information about the importance of consent and behind-the-scenes footage of the actors in the videos negotiating consent and limits.⁴² Some of these videos may be indistinguishable from other pornography if reproduced on a different website, but they are clearly intended to be viewed in a context where information about consent is available and foregrounded, and thus they are not illocutionary acts of subordinating women. As a side note, we might mention that prevailing social structures and ideologies clearly play a role in shaping the context in which any speech act is received, and in the case of pornography, existing

⁴⁰ Saul 2006, p. 246.

⁴¹ Sadly, a discussion of what makes a given uptake reasonable or not would be far beyond the scope of this paper, even if it is somewhat unsatisfying to have part of my account rest on such a vague term. I suspect that Gricean pragmatics could be one tool to establish when certain uptakes are justifiable, but ultimately the question of reasonableness of uptake might not be amenable to objective definition, but rather a political question, always open to contestation. This would mean that my account does not lend itself to deciding ‘objectively’ whether or not a speech act subordinates, but it moves the argument away from the question of whether or not speech, in the form of recordings, can in itself be subordinating, to the question of whether a specific speech act actually subordinates people.

⁴² O’Donnell 2016.

patriarchy and rape culture can probably be said to impose special duties on pornography producers to ensure that their content is not understood by recipients to endorse sexist norms.⁴³ A fuller development of the approach to recorded speech acts I am proposing here would include further discussion of the role of ideology and social structures in shaping context and reasonable uptake.

There are still plenty of open questions about the nature of subordinating and recorded speech acts: What makes a certain uptake reasonable? When does uptake 'override' intention? How do we determine the intended context(s) of any recorded speech act? But this account has shown that it is coherent to claim that a recorded speech act – a video, a written text, even an image – can be an illocutionary act of subordination, discrimination, or legitimation of violence. In other words, it is possible, using Speech Act Theory, to hold content producers accountable for the illocutionary force of what they produce.

5. Conclusion

Langton mostly took it for granted that Speech Act Theory can be applied to recorded speech acts such as pornography. Saul questioned this approach, but my arguments here lend legitimacy to Langton's claims.

I have argued that Langton's application of Speech Act Theory is defensible. Pornographic works are *recorded* speech acts, and recorded speech acts have an illocutionary force that can gain uptake in the absence of the 'speaker'. Anything that looks like a recorded message, such as Ethel's note, but cannot be described as a rhetic act was either never intended as an illocutionary act or turned out infelicitous. It is important, however, not to jettison Saul's insight that pornography is viewed in a variety of contexts: recorded speech acts have *intended contexts* – a wide range of contexts in some cases. We may, then, ascribe a certain illocutionary force to a recorded speech act if a certain uptake is reasonably secured in some of the intended contexts.

This makes Langton's arguments much more plausible than Saul portrays them: a pornographic work can be a subordinating act without all or even most viewings being acts of subordination. More crucially, however, my account of recorded speech acts gives us the theoretical tools to recognise content producers as responsible for their acts. Saul's arguments threatened to support an absolute *carte blanche* to content producers as she shifted all the focus to the act of consuming content – as she points out, her approach can only be used to justify policies regulating the context in which content is consumed, not its production.⁴⁴

Holding producers of discriminatory content accountable in one way or another is essential. Lynne Tirrell, for instance, in her analysis of the role of hate speech in bringing about the Rwandan genocide, highlights recorded speech acts – from political cartoons to radio shows.⁴⁵ Interestingly, she coins the term 'genocidal language games', drawing on Wittgenstein whose term 'language game' was meant

⁴³ Phipps et al. 2018; see also further articles in this special issue of the *Journal of Gender Studies*.

⁴⁴ Saul 2006, p. 246.

⁴⁵ Tirrell 2012, p. 183.

exactly to call into question any sharp distinction between speech, in the strict sense, and our other ways of interacting through gestures, images, text, etc. Whether we produce speech, images, or video, we all need to be held accountable for our contributions to the language games we participate in, and this essay has argued that Speech Act Theory gives us the proper tools to do so.

I have left many questions open, including what makes a certain uptake reasonable, when uptake can 'overrule' intention and, of course, to what degree we ought to censor discriminatory content. Nevertheless, such discussions require as a starting point a solid understanding of recorded speech acts, and that is what I have begun to build here.⁴⁶

⁴⁶ I would like to express my gratitude to Gerry Hough whose helpful feedback on an earlier version of this article significantly improved my arguments. I also thank four anonymous reviewers for their extensive, detailed, and constructive feedback.

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Sexual Desire and Sexual Perversion

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Abstract

When one feels sexual desire, they often feel it *towards* some object. The particular object that it is felt towards may vary, but the formal object remains the same and serves to unify each token of the emotion. In this paper, I establish that the formal object of sexual desire is something that has the property of being a 'pleasant sexual partner', a role fulfilled by an agent who would reciprocate the relevant attitudes, allowing for the exchange of sexual energy that characterises sexual intimacy upon awareness of like intentions being directed towards it. As such, a correct sexual desire is one in which the subject is justified in apprehending the object of their desire as the formal object, whereas an incorrect sexual desire is one in which the subject lacks such justification. One might then think that incorrect sexual desire characterises sexual perversity. However, an incorrect sexual desire does not carry the same morally negative weight as the concept of perversion, and thus is not enough to characterise perversion. Sexual perversity begins with an unjustified apprehension of something as the formal object and reaches its final morally reprehensible state in conjunction with conditions that outline the subject's lack of concern towards their object's reciprocal status as an agential being.

1. Introduction

One of the most notable efforts to conceptualise sexual desire comes from Nagel in his work "Sexual Perversion". Inspired by sentiments expressed by Sartre, Nagel offers an account of sexual desire that prioritises the *mutual recognition* of oneself and the object of desire as sexual agents.¹ From his account flow conditions that place any instance of sexual desire that appears to disturb the mutual recognition into the category of 'perverse'. Although Nagel provides a working conception of sexual desire, his account does not provide us with an intuitive method of distinguishing between appropriate sexual desires and perverse sexual desires. In this paper, using my own conceptualisation of sexual desire that is informed by the works of both Roger Scruton and Fabrice Teroni, I aim to provide an account of sexual perversion that

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¹ Nagel 1969, pp. 9-13.

allows for the variance of sexual tastes in society whilst maintaining the importance of agent reciprocity.

2. What is Sexual Desire?

In order to elucidate sexual desire, I distinguish it from something that it is often mistaken for, namely, sexual arousal. At the culmination of the discussion below, we shall see that sexual arousal is a component of sexual desire but is not what wholly constitutes it.

Although one feels sexual arousal when they desire another, sexual desire is not wholly constituted by sexual arousal: one can be sexually aroused at no particular or identifiable object, whether by the idea of sex or mere stimulation of the sex organs. Sexual desire seems to have more intentionality to it in that when one feels sexual desire, they feel that sexual desire *for* something. Following Scruton's line of thought in *Sexual Desire*, I begin my analysis of sexual desire by determining what foundation it can be built upon, which Scruton maintains is the primal, reactionary state of sexual arousal: "We can understand desire only if we first display the outline of a more passive state of mind - the state of arousal, in which the body of one person awakens to the presence or thought of another".² Ultimately, I shall argue that Scruton's conception of sexual arousal is better suited to sexual desire, but this shall be addressed after we lay the basis.

Scruton recognises a common way of thinking about sexual arousal, namely, that it is merely a purely bodily state that affects the agent that feels it to the extent that they must engage in a sexual act to relieve the bodily itch, portraying it to be the source of some sort of annoyance or irritation.³ As such, the drive to have sex when sexually aroused is merely a drive to rid oneself of a particular type of bodily irritation. However, Scruton argues that viewing sexual arousal in such a simplistic manner doesn't account for the intense complexity of the state; when one experiences sexual arousal, they do not view it as an annoyance or an irritation that they must relieve at once with the mere act of intercourse. Instead, it is a state in which the body becomes sensitive and aware of the look, the caress, and the intention of the other. The aroused subject experiences pleasure that is born from the actions of the other, under the condition that the other is viewed as a sexual being with sexual intentions towards the aroused subject. This is not to say that arousal is just the feeling of pleasure at the touch of the other, as then there would be nothing to differentiate it from the pleasure experienced when one is hugged by a dear friend or kissed on the cheek by a relative. Scruton claims that arousal is different in that it occurs when one recognises the sexual intention of the other, under which their touch, glance, or look is a vessel of such intention: "Arousal is a response to the thought of the other, as a self-conscious agent, who is alert to me, and who is able to have 'designs' on me".⁴ Thus, Scruton aims to paint an image of sexual arousal as a *reactionary state* that finds its origin in the recognition of the intention of the other. I dissent from this line of thought, suggesting

² Scruton 2006, p. 16.

³ Ibid.

⁴ Ibid., p. 23.

instead that this intentionality is characteristic of sexual desire as opposed to sexual arousal.

In his conception, Scruton aims to show that sexual arousal is more than a purely bodily state in which the agent itches to relieve a bodily sensation. I counter his view by suggesting that sexual arousal is indeed a *purely* bodily state. To expand, sexual arousal is a bodily state that serves as a reminder that our body craves sexual release, but this craving need not require the intentionality that Scruton prescribes of it. One can become sexually aroused by the thought of a sexual act, an object, or pornography. Furthermore, one could even become sexually aroused subconsciously, as in cases of nocturnal penile tumescence – ‘morning wood’. In these cases, one is not recognising the presence or the actions of another that are indicative of sexual intentionality but is rather experiencing arousal in virtue of being stimulated by something. Essentially, the intentionality of the arousing object need not be recognised for the experience of sexual arousal to be classified as such.

The image of sexual arousal Scruton forms lends itself well to the account of sexual desire I wish to appeal to. Sexual desire is an *emotional state*, coinciding with the reactionary nature prescribed to sexual arousal on his account, which is characterised by both the recognition of oneself as a sexual agent undergoing sexual impulses and the recognition of the object of desire’s role as a willing receptacle for such sexual advances. This mutual recognition brings the possibility of culminating the encounter in a sexual act to the fore. As Scruton says:

My sense of myself as identical with my body, and my sense of you as identical with yours are crucial elements, both in the aim and in the reception, of the arousing caress. I am awakened in my body, to the embodiment of you. Underlying the woman's state of arousal is the thought: “I, in my body, am something for him”, and her response - the 'opening' to his approaches, and all that is entailed in that - must be understood in part as an expression of that thought, and of the interpersonal intentionality that is built upon it.⁵

As such, alluding to Nagel, when one apprehends the object of their sexual desire, they have a double recognition of sorts: they recognise something about themselves and recognise something about the object of their desire.⁶

Given that I am characterising sexual desire as an emotion, I shall endeavour to uncover its nature in the following segment by assessing what triggers the emotion and determining what each particular instance of it has in common.

3. Formal Objects and Correctness

In many cases, emotions are intentional in the sense that they are typically directed at something. For example, in the case of anger, one is usually angry at something or

⁵ Ibid., p. 26.

⁶ Nagel 1969, p. 10 – “A double reciprocal incarnation”.

about something.⁷ At times, one's emotions may invoke actions, but this is not always the case. In *Emotions and Formal Objects*, Teroni claims that these objects that direct the emotions are called *particular objects*, and the role they have is to "individuate instances of emotions belonging to the same kind".⁸ However, when one wishes to uncloak an emotion in its entirety, it helps to determine what is shared by each particular object that directs each instance of that emotion: Teroni calls this commonality between instances of an emotion the *formal object* of that emotion.⁹

The formal object of an emotion serves to unify different instances of each emotion type by pinpointing a shared property.¹⁰ As I have established in the previous segment, sexual desire is not reducible to the purely bodily state of sexual arousal. As such, the formal object cannot be a mere desire for sexual release following stimulation of some sort, as cases of sexual desire would then lack the intentionality we are seeking to ascribe to them, rendering them indistinguishable from cases of mere sexual arousal. Furthermore, sexual desire is not reducible to pleasure experienced at the touch of another, as this would not distinguish it from pleasure that comes from non-sexual acts such as handholding, hugging friends and family, or kissing relatives on the cheek. However, it seems a close contender for the formal object of sexual desire to be a desire for intimacy of some sort with another, given that intimacy involves an intentional recognition of the presence of another. Nonetheless, if we identify sexual desire as a desire for mere intimacy with another, we run the risk of including cases which exhibit such intimacy without sexual motivation behind it; for instance, one can be intimate with friends or family. Given that sexual desire is manifestly sexual in nature, perhaps we can modify the intimacy characterisation to hold that to sexually desire an object is to want *sexual* intimacy with that object – sexual intimacy being a type of intentional sexual closeness. Therefore, we can say that the formal object of sexual desire in every case is a pleasant sexual partner where 'pleasant sexual partner' is defined as something or someone that the desirer apprehends as an appropriate receptacle of their sexual intentions which is motivated by the live possibility of culminating such sexual intentions in the sexual act.

In *Emotions and Formal Objects*, Teroni outlines the functions of formal objects in relation to their respective emotions: "The formal objects of emotions allegedly play three roles. They (i) are different for each kind of emotion, (ii) make emotions *intelligible* reactions, and (iii) are fundamental in assessing their conditions of *correction*".¹¹ The second and third of the three conditions are relevant to the discussion on correctness. They are formally stated as follows: (ii) Intelligibility Requirement: "Formal objects are needed to make sense of emotions"; (iii) Correctness Requirement: "Formal objects are needed to assess whether emotions fit their particular objects".¹²

Teroni claims that the two requirements are connected in that the intelligibility of an emotion is characterised by the *justifying reasons* that prompt an agent to take the

⁷ Teroni 2007, pp. 395-96.

⁸ *Ibid.*, p. 396.

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ *Ibid.*, p. 399.

¹² *Ibid.*

stance of the emotion – sexual desire in our case – towards the particular object, and such a stance qualifies as an apprehension of the particular object of the emotion being felt:

Fear itself evaluates its particular objects as dangerous on the basis of these reasons; these reasons justify taking the characteristic stance of fear towards these objects, a stance that qualifies as an apprehension of danger. An emotion is a characteristic reactive stance taken towards the apprehension of justifying reasons.... Fear is a mechanism allowing a creature to be aware of danger as a result of the perception of reasons that make the emotion intelligible.¹³

As such, we can classify a sexual desire as *correct* when the subject feeling the sexual desire apprehends the particular object of their desire as a pleasant sexual partner for purposes that are evaluated on the basis of justifying reasons that serve to make the emotion intelligible. It is important to note that the standard by which we deem reasons as ‘justifying’ in order to make the emotion intelligible is set by the sufficiently rational individual. In that sense, if a sufficiently rational individual were to assess the justifications given by the one who desires and conclude that they make their emotion intelligible, then their desire is justified.¹⁴ The following case illustrates correct sexual desire: Sam has a correct sexual desire for Lisa when Sam apprehends Lisa as a pleasant sexual partner because she is conscious, attracted to him, and being receptive of his intention. Insofar as the justifying reasons serve to support the apprehension of the particular object – Lisa, in this case – as an agent who would reciprocate the attitudes necessary for the exchange of sexual energy that characterises sexual intimacy upon the awareness of Sam’s designs on her, the desire is correct.

On the other hand, we can say that an instance of sexual desire is *incorrect* when it does not fit its particular object, i.e., when the subject does not apprehend the particular object of their sexual desire in such a way that is evaluated on the basis of justifying reasons that serve to make the emotion intelligible. For example, keeping with our comrade Sam, we can say that he has incorrect sexual desire for Lisa when Lisa shows no ‘signs’ of being a pleasant sexual partner. In other words, sexual desire is incorrect when the subject cannot provide justifying reasons to suppose that the particular object of their desire embodies its formal object.

It is important to note here that incorrectness and correctness are amoral concepts. Typically, when an instance of sexual desire is negatively morally charged, we would say it is ‘perverse’. However, as I have stated, negative moral judgement for an instance of sexual desire cannot be justified merely in virtue of the instance being incorrect. The following sections will expand on what more is necessary to determine when sexual desire is deserving of denigration.

¹³ Ibid., p. 413.

¹⁴ Determining what characterises the ‘sufficiently rational’ individual is a heavy task, which undoubtedly lies beyond the scope of this paper, as with consciousness. I take a sufficiently rational individual to be one who can fully understand the justifications presented and accordingly provide a reasonable assessment of their validity.

4. Sexual Perversion

In "Sexual Perversion", Nagel offers an account of sexual desire that holds that sexual desire is characterised by the mutual recognition of agents. On his conception, agents go through several steps when they experience sexual desire that characterise a sexual interplay of sorts: I first become aware of myself as a sexual agent, then become aware of you, then become aroused at noticing you, then you become aroused at me, then I become aroused at you aroused at me, etc.¹⁵ Nagel holds that anything that disturbs this process of back-and-forth sexual awareness is labelled as perverse.¹⁶ This notion lends itself well to my definition of incorrect sexual desire, as when a sexual desire is incorrect, the subject of desire lacks justification for their emotion, i.e., the particular object of their desire is not correctly apprehended as a pleasant sexual partner, namely something that can reciprocate the relevant attitudes. Translating this to Nagel's account, this may take the form of a disturbance of the condition that requires the object of one's desire to be aware of themselves, then aware of the other. As follows, we can start the analysis of sexual perversion with the following trial definition: if a sexual desire is incorrect, then it is perverse.

Now, it is intuitive that when we call something 'perverse', we give it a morally derogatory label; furthermore, when we say a sexual desire is incorrect, we are implying that it is bad in some way or that it has gone wrong, so it seems fitting to equate the two. However, we can think of cases of sexual desire that are incorrect, but don't seem to be deserving of moral denigration, for instance, sexual desire for inanimate objects. If one has sexual desire for an inanimate object, they have an incorrect sexual desire because they are not justified in apprehending the object of their desire as a pleasant sexual partner, namely something that would reciprocate the relevant attitudes necessary to characterise sexual intimacy upon awareness of like designs being directed towards it. It seems evident that, for example, if one were to sexually desire a broomstick, the broomstick is literally incapable of reciprocating, so their desire is incorrect, but not evidently perverse. Thus, incorrectness alone does not get us where we need to be in order to capture the morally negative content of the label 'perverse'.

Perhaps we can try something like the following: a sexual desire is perverse if the object of one's desire is incorrect, and furthermore, that one sexually desires this object *insofar* as they have an incorrect desire; namely, one sexually desires an object insofar as they cannot justify their apprehension of the object of their desire as a pleasant sexual partner. So, to illustrate this, suppose one has a sexual desire for an animal: their sexual desire is incorrect, as they cannot provide reasonable justification for their apprehension of the object of their desire as a pleasant sexual partner, but furthermore, that they desire the animal insofar as the animal is not something that would reciprocate the relevant attitudes. This seems to be getting us closer to what we need because, if we suppose that the lack of reciprocity is a feature of what makes the object desirable to the agent, it is akin to saying that the agent is taking advantage of the object of their desire, which, at least intuitively, seems morally reprehensible.

¹⁵ Nagel 1969, pp. 9-13.

¹⁶ *Ibid.*, pp. 13-14; explicitly stated on p. 13.

However, I can conceive of a case in which one sexually desires an object. Let's suppose we use the broomstick example again, and their desire is incorrect, and furthermore that they desire the object insofar as the broomstick would not reciprocate, but this person is not really blameworthy. The broomstick is an inert object and would not object or consent in any case because it lacks consciousness. Perhaps what is needed is a definition of perversity that accounts for both the mental state of the desiring agent and that of the desired object.

I suggest the final definition of perversion: a sexual desire is perverse *if and only if* (1) the object of desire has a condition of consciousness that ascribes them agenthood, (2) the object of desire must be able to incur harm from unwelcome sexual advances, (3) the sexual desire is incorrect, and (4) the desiring agent is indifferent to the incorrectness of their desire.¹⁷ It is important here to emphasise that indifference is what makes the desire perverse, rather than ignorance. The indifference of the agent who desires means that they do not care that they are not justified in apprehending the object of their desire as someone who would not reciprocate upon gaining knowledge of the intentions being directed towards them

To illustrate this and make it clearer, let us go back to our friends Sam and Lisa. We would say that Sam has perverse sexual desire for Lisa when (1) Lisa is fully autonomous; (2) Lisa is able to incur harm from the unwelcome sexual advances; (3) Sam is not justified in apprehending Lisa as something that would reciprocate upon awareness of sexual designs being directed towards her because she is not giving any signs that suggest her openness to a sexually charged interaction with Sam; and (4) Sam is indifferent towards the fact that he is unjustified in apprehending Lisa as someone who would reciprocate the relevant attitudes if she was aware of like designs being directed towards her – Sam is indifferent to Lisa's lack of reciprocity. This seems to get us to the area we need to be in to fully encompass the negative content of perverse sexual desire.

In order to test this definition for practicability, let us run it through some fetishes and practices that are commonly cited as perverse and see if it classifies them as such. Let us focus on voyeurism first – a fetish in which one gains sexual pleasure from spying on unsuspecting people in compromising positions such as when they are nude or engaging in sexual acts.¹⁸ Now, a note about this particular fetish: it would cease to be classified as such if the victim were aware of their being watched and also derived pleasure from that experience. I am focussing on cases of unwelcome spying, akin to what we would call a classic case of a 'Peeping Tom'. This is perverse for the following reasons: (1) the victim is conscious and thus has the ability to reciprocate or not, and they are not reciprocating; (2) the victim has the ability to incur harm and would incur harm upon gaining knowledge of the voyeur's actions; (3) the spy is incorrect in apprehending the victim as someone who would reciprocate upon awareness of designs directed towards them, as no evidence points to their being reciprocal – if they knew that they were being spied on, they would not be pleased; and (4) the spy is

¹⁷ The indifference notion was inspired by a comment made by a comment given to me at the Undergraduate Philosophy Conference at the University of Toronto St. George Campus.

¹⁸ American Psychiatric Association, 2013.

indifferent towards the lack of actual reciprocity and potential reciprocity, for they derive sexual pleasure from the fact that they are spying on the victim while the victim is unaware. This action is tantamount to a violation of the victim's privacy, which would be an unwelcome intrusion to the person being spied on.

The penultimate fetish I would like to assess is exhibitionism, a fetish in which one derives sexual pleasure from exposing themselves to nonconsenting others.¹⁹ This fetish is perverse because (1) the victim(s) are conscious; (2) the victim(s) can incur harm from the actions of the exhibitionist; (3) the exhibitionist is incorrect in apprehending the victim(s) as individuals who would reciprocate upon awareness of designs directed towards them, as no evidence points to their being reciprocal. Not only is there a temporal constraint in that the 'flashing' occurs too quickly for the victim to be able to show reciprocal signs prior to the act, but there is no reason for the exhibitionist to assume that their victim would reciprocate, given they flash an unwitting audience. Finally, (4) the exhibitionist is indifferent towards the incorrectness of their sexual desire, for they derive sexual pleasure from the fact that they are exposing themselves to an unwitting, nonconsenting, nonreciprocal audience.

The final case I would like to consider is rape, and I will assess rape committed on a fully aware and conscious victim and rape committed on an inebriated or unconscious victim separately. The former is evidently perverse on the definition given, and I will argue that the latter is as well, but for different reasons. When one sexually desires the thought or commission of rape on a fully sentient victim, their desire is perverse because the victim has the ability to either reciprocate or not, and they are not in any way reciprocating. The victim can and is incurring harm from the actions of the rapist, the rapist has an incorrect sexual desire, and the rapist is indifferent to the incorrectness of their desire.

On the other hand, when one sexually desires the thought or commission of rape on an inebriated or not fully aware victim, they may appeal to justifying reasons in order to defend their desire, such as 'they are aroused', or 'they are not resisting', maintaining that their desire is correct. They are mistaken for several reasons. First, the victim's autonomy is impaired, which removes their ability to reciprocate or resist. Even if the victim is aroused, they lack the situational awareness that they require in order to make self-directing decisions. Furthermore, and perhaps most importantly, they are incurring harm even if they are not conscious. All of this goes to show that rapists do in fact have perverse sexual desires, despite what 'justification' they attempt to appeal to. Furthermore, they are indifferent about their lack of justification because they know that their desire is incorrect – they have all the relevant contextual information – and they still act on their desire. As follows, in any case, rape is a perverse sexual desire.

An important note to make at this point is that, evidently, if sexual desire is correct, meaning that the desiring agent is justified in apprehending the object of their desire as a pleasant sexual partner, namely someone who would reciprocate the relevant attitudes and intentions upon awareness of such designs being directed towards them,

¹⁹ Ibid.

then it is not perverse. An interesting finding along the same line of thought is that some sexual fetishes that have been previously assessed as perverse are no longer classified as such; for instance, polygamy, as well as sadism and masochism.²⁰ Deviation from the 'norm' does not necessarily make one privy to moral denigration. The origin of perversity finds itself in incorrectness and then follows a process of evolution with the addition of the other features outlined by the four conditions that bring it to its final, morally reprehensible state.

5. Shortcomings of the View

Even though my account effectively classifies several fetishes into the categories of perverse and not perverse, there are a handful of cases that escape clear classification. The first subset of problematic cases includes those that feature objects of desire with questionable agenthood. In order to illustrate this shortcoming, I will consider cases of bestiality, paedophilia, and sexual desire for robots or AI.

First, we can assess bestiality – a fetish in which a human sexually desires non-human animals. The difficulty in classifying whether cases of bestiality are undoubtedly perverse comes from the fact that organisms vary in how they behave in virtue of having different capacities and cognitive abilities. As such, it is hard to determine both (a) whether the non-human animal is undoubtedly fully autonomous or has a level of consciousness that makes it fully aware of its circumstances to the extent necessary to make self-directing decisions, and (b) whether the non-human animal is showing signs of reciprocation or distress during the commission of the sexual act by the human. It seems evidently perverse if a human is forcing themselves on an animal and the animal is showing overt or clear signs of distress – thus violating condition (2) of the definition of perversity – but what if we conceive of a case in which an animal does not resist the sexual advances of a human? Do we have enough evidence in any case to determine whether the animal is reciprocating or consenting? I would still call it perverse when a human engages with an animal sexually without knowing definitively whether the animal intends to reciprocate or is reciprocating, according to its unique way of doing so, even if it is not resisting. In order for the human to avoid classification as perverted when engaging with a non-human animal, they would have to know enough about the mental state of the animal in order to tell without a doubt that the animal is fully aware and understanding of their circumstances, prompting them to reciprocate the relevant desires and attitudes, which in many instances is not the case. It is easier with humans because we have become accustomed to verbalising and making explicit our consent or non-consent, and even when we are unable to do so, we know why we are unable to do so. Given that we have an idea of what conscious agency looks like for a healthy individual that is not inebriated or incapacitated in any way, we can tell when something is incapacitating or impeding us. We do not have the same ability for other species because of the presence of a communicative barrier.

²⁰ Nagel 1969, pp. 14-15.

Another troubling case is paedophilia. We can see that if a child is not reciprocating or is showing overt signs of distress or harm, following the conditions given for perversity, then the adult's desire is perverse. However, what if we conceive of a case in which the child does reciprocate or is showing signs of being receptive to the adult's intentions? There is much to be said about the reciprocal status of a child: is there a point before the legal age of consent that the child can be said to be sufficiently aware or cognitively mature enough to have an awareness of their circumstances?²¹ If the answer to that question is 'yes', then cases in which the child consents and would reciprocate, namely correct cases of sexual desire, are not perverse on my account. This is an unfavourable conclusion because the account must provide intuitive results, and intuitively and legally, paedophilia ought not to fall under the scope of 'acceptable sexual desire'. Appealing to the legal age of consent helps my account by drawing a definitive boundary between when a child is said to have the capacity to make fully autonomous decisions. Although such a boundary may be arbitrary, it is necessary in order to prevent needless harm from being imposed on children that may not have had the level of awareness required in order to protect themselves or reject the advances of the adult.

Yet another fetish that straddles a similar line is sexual desire for robots, given that the question of the level of their consciousness is a contentious debate. As of now, there still seems to be a clear line drawn between human consciousness and that of even highly developed AI, but it is not inconceivable that as time progresses, and subsequently so does technology, this could change. This poses an issue for my account because it makes it difficult to determine whether we ought to treat sex robots as inert objects or agents deserving of moral consideration. For, if we consider them inert objects, then sexual desire for one would be incorrect, but not necessarily morally reprehensible. Alternatively, if we come to realise that they share the level of consciousness that we do, effectively rendering them able to understand and reciprocate intentions and designs of the relevant sort, they are also included within the scope of moral consideration.

The second implication of the account is that we leave out of the definition of 'perverse' desires for inanimate objects. As follows, one can have a sexual relationship with their table, for instance, and not be labelled as a pervert, which might not be the intuitive answer. In order to illustrate this worry, I would like to provide a case study: Edward Smith is a 'mechaphile', a person who is sexually attracted to different types of vehicles, whether it be aerial transportive vehicles like aeroplanes, trains, or simple cars. He had hundreds of such sexual partners before he committed to his Volkswagen Beetle.²² The first thought that many may have upon considering this case study is, 'this has to be perverted', but I stand by my account and suggest instead that Edward is not a pervert, but a man who simply has an *incorrect* sexual desire, and as stated previously, incorrectness and correctness are amoral concepts. This is because in desiring what he desires and carrying out the subsequent acts that spur from such desire, he does not harm anybody – the object of his desire cannot incur harm in virtue

²¹ World Population Review, 2020.

²² Moye, 2013.

of the fact that it is inanimate. Much can be said about what constitutes harm for another, but the most important potential receptacle of harms in virtue of Edward's acts are the cars themselves, and given that they are inanimate objects, they aren't being harmed at all.

The discussion on the nature of sexual desire for inanimate objects raises questions about fetishes like necrophilia, in which one derives sexual pleasure from the notion of carrying out various sexual acts with a corpse. If we consider a corpse to be nothing more than an inert object which physically cannot reciprocate in any case, akin to a car or a broomstick, the necrophiliac has an incorrect sexual desire, but not a perverse one. In this way, it would be reminiscent of our discussion on inanimate objects: one can be said to have an incorrect sexual desire when it is towards an inanimate object, but they do not seem to deserve moral denigration for it. However, this treatment does not cohere to our intuitions about necrophilia, namely, that it ought to be classified as perverse. Upon further examination, we can see that my account can classify necrophilia as perverse because even though the corpse itself lacks consciousness or agenthood, and thus lacks the ability to incur harm, the corpse can still be harmed in virtue of the fact that it once was animate, whereas a broomstick, for instance, never was and never will be. In virtue of the web of connections a person builds before they die which they are only able to do because they once were alive, they are identified by more than just their physical status. This motivates the thought that they ought to be respected in ways which inanimate objects are not.

6. Conclusion

Having an account on hand that effectively distinguishes cases of appropriate sexual desire from cases of sexual perversion is of the utmost importance, not just in a philosophical context, but in a legal or general social context. In this paper, I have aimed to construct a conceptualisation of sexual desire that paves the way for determining appropriate sexual desires from perverse sexual desires. The exceptional cases that I have outlined that seem to evade clear classification are not indicative that the account itself suffers from a dysfunction. Rather, they are reminders of the complexity and malleability of society and the organisms that compose it.²³

²³ I would like to thank the referees and members of the editorial team at the UPJA for their valuable insights. I would also like to thank my supervisor, Professor Jacob Stump; my mentor at the time, Professor Kenneth Boyd; and my colleagues, Adrian Ma, Zachary Grey, Shadi Laghai, Vangie Tsagarakis, and Julio Oliveros for helping me produce and develop the idea that resulted in this work.

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Reconceptualising Confucian Freedom: The Role of Xin in Mediation

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Abstract

In Confucian scholar Li Chenyang's "The Confucian Conception of Freedom", he conceptualised a theory of freedom that relates an individual's decision-making and self-cultivation processes with the processes of socialisation the individual goes through. His motivation behind this article is to purport a political philosophy that allows individuals in a particular society to realise the good. In his article, he argued that Confucian freedom is a form of actualised freedom whereby individuals 'choose the good'. In this essay, I will discuss several shortcomings of such a conception and attempt to shift the focus from 'choosing the good' to 'choosing' itself. I will point out that conceptualising actualised freedom as 'choosing the good' will have counterintuitive implications. Subsequently, I will argue that actualised freedom does not merely consist of an individual's choosing of the good but also his consciousness of his choosing. Such a consciousness, as I will argue, cannot be acquired without self-cultivation and meaningful socialisation. I draw passages from Mengzi and Xunzi to formulate a supplementary account to Li's conception of freedom. In doing so, I preserve the role of socialisation and cultivation in conceptualising Confucian freedom.

1. Introduction

In Confucian scholar Li Chenyang's "The Confucian Conception of Freedom", he conceptualised a theory of freedom that relates an individual's decision-making and self-cultivation processes with the processes of socialisation the individual goes through. His motivation behind this article is to purport a political philosophy that allows individuals in a particular society to realise the good. This essay discusses several shortcomings of Li's conception and subsequently proposes a supplementary conception of Confucian freedom that emphasises a phenomenological aspect of Confucian freedom. The first section discusses the current conception of Confucian freedom as purported by Li and Ni Peimin. A Confucian conception of freedom, as Li

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argues, is a form of actualised freedom, manifested by individuals choosing the good. Here, I will argue that Confucian freedom being manifested as ‘choosing the good’ is too narrow. In the next section, I argue that Confucian freedom should encompass our consciousness of *xin* (心) mediating our impulses.¹ In doing so, I steer away from the notion of ‘choosing the good’ to ‘choosing’ itself. I offer a formulation here by considering how ‘choices’ result from *xin* mediating our impulses and how freedom is actualised in choosing *itself*. Finally, I will attempt to address the dialectic between my formulation of freedom and the Confucian notion of cultivation. Specifically, one can still hold that cultivation, as a good-directed process, is possible with a conception of freedom that is not restricted to merely choosing the good.

2. Current Conception of Confucian Freedom

As recognised by Li and Ni, freedom is difficult to articulate in a Confucian context.² Nevertheless, they both defined Confucian freedom to consist of an important notion: *choice*. Choice, as Li contends, “implies freedom. Obviously, no one can choose without freedom”.³ This assertion is easily referable to the Confucian classics. For example, in the *Analects*, Confucius said that “At the age of seventy, I was able to follow the desire of my *xin*”.⁴ In the *Xunzi*, the same notion arises:

The heart [*xin*] is the lord of the body and the master of one’s spirit and intelligence. It issues orders, but it takes orders from nothing: it restrains itself, it employs itself; it lets itself go, it takes itself in hand; it makes itself proceed, it makes itself stop. Thus, the mouth can be compelled either to be silent or to speak, and the body can be compelled either to contract or to extend itself, but the heart cannot be compelled to change its thoughts. What it considers right, one accepts. What it considers wrong, one rejects. And so I say: if the heart allows its choices to be without restraint, then when it reveals its objects they will surely be broadly varying.⁵

In this long passage, *Xunzi* describes *xin* (the heart) as the “lord of the body” that “takes order from nothing”. Importantly, he alludes to the capacity of *xin* to choose between right and wrong. Indeed, Li’s assertion that choice implies freedom is well-rooted in classical Confucianism.

However, a challenge presents itself when Mengzi and *Xunzi* each made claims that arguably deny that *xin* is always free. Mengzi, for instance, is notorious for claiming one can “lose his *xin*”.⁶ Mengzi’s discussion of losing one’s *xin* points to how individuals can lose their ability to make good choices under certain circumstances.⁷

¹ *Xin* refers to 心 throughout the whole essay. It roughly translates to ‘heart’, ‘mind’, or both.

² Li 2014; Ni 2002. Li claims that because Chinese history and philosophy does not consist of theodicy that Chinese philosophy did not discuss freedom in a way Western philosophy did.

³ Li 2014, p. 909.

⁴ 七十而从心所欲。

⁵ *Xunzi* 2016, p. 229.

⁶ Mencius 2011, 6A:11, 4A:9.

⁷ His theory of *xin* includes a discussion of *qi* (气) affecting the purity of man’s initial moral conscious.

For example, Mengzi discusses whether to accept money from someone without regard to “decorum and rightness”. He concludes by saying: “What formerly I would not accept even at the risk of death, I now accept for the gratitude of poor acquaintances. Could such things not have been declined as well? This is what is called ‘losing one’s original [*xin*]’”.⁸ I read Mengzi to say that external factors seem to be influencing the capacity of *xin* to make free choices. That is, the environment we live in has a direct effect on how *xin* chooses. This view recurs multiple times in the *Mencius*. For example, Mengzi indeed said:

In years of abundance, most of the young people have the wherewithal to be good, while in years of adversity, most of them become violent. This is not a matter of a difference in the native capacities sent down by Heaven but rather of what overwhelms their [*xin*].⁹

Xunzi also seems to make similar claims about *xin*. He describes it as a “pan of water”:

If you set it straight and do not move it, the muddy and turbid parts will settle to the bottom, and the clear and bright parts will be on the top, and then one can see one’s whiskers and inspect the lines on one’s face. But if a slight breeze passes over it, the muddy and turbid parts will be stirred up from the bottom, and the clear and bright parts will be disturbed on top, and then one cannot get a correct view of even large contours.¹⁰

Here, Xunzi discusses how *xin* can turn “muddy and turbid”. The analogy of a “slight breeze” refers to how external circumstances can easily alter the initial “clear” state of *xin*. In this passage, we see that Xunzi seems to be juxtaposing *xin* as the “lord of the body” which “takes order from nothing” with it being “a pan of water” which can turn “muddy and turbid” with a “slight breeze”. He, like Mengzi, also seems to think that *xin* might not be entirely free. As when circumstances change, an individual’s *xin* can be “drawn aside”. Both thinkers seemed to suggest a movable characteristic of *xin* that is beyond its control, that *xin* is not entirely free of external coercion. Hence, Confucian freedom of choice seems to be paradoxical.

Li attempts to resolve this dichotomy by distinguishing between *actualised* freedom and *abstract* freedom. Abstract freedom refers to the freedom of choice when there are minimal or no restrictions to our choices.¹¹ Such freedom, Li contends, is “unfulfilling”. In a way, making choices without relevant societal constraints amounts to being *arbitrary*, insofar as unintelligible, choosing. Li uses his example of choosing a healthcare insurance plan in a foreign country without the relevant knowledge of the healthcare system in that country. Without any relevant knowledge of how the local healthcare works, the choices he makes are arbitrary. Actualised freedom, on the other hand, is not arbitrary (and minimally intelligible). Importantly, agent competency, Li argues, is necessary for this non-arbitrary choosing. Such competence comprises

⁸ Mencius 2011, 6A:10.

⁹ Mencius 2011, 6A:7.

¹⁰ Xunzi 2016, p. 231.

¹¹ Li 2014, p. 909.

“knowledge, aspirations, and values” of the individual.¹² All of these are derived, acquired, and cultivated by the individual, from the society he lives in.

Similarly, Ni rejects Confucian freedom as abstract freedom. Ni argues that an appropriate conception of Confucian freedom needs to account for the restraints that allow individuals to choose meaningfully. To illustrate, Ni asks: “Which one gives me more freedom, the availability of drugs that destroy myself or the knowledge and disposition to stay away from them?”¹³ Both Li and Ni will contend that “too much freedom”, i.e., abstract freedom, will mean that individual choices cannot be (socially) appropriated.¹⁴ Consequently, abstract freedom only means that individuals make arbitrary and meaningless choices.

Secondly, Li argues that a sociology has to precede and ground actualised freedom. Such a freedom, Li argues, “is not free from socialisation”. He then argues: “The relevant question here is not how persons can be free of socialisation, but rather what kind of socialisation is conducive to personal autonomy to freedom”.¹⁵ Indeed, an important difference between arbitrary choosing and knowledgeable choosing lies in learning, one which heavily relies on the kind of society in which an individual was brought up. Li argues that for an individual to make meaningful choices, consequently realising his freedom, he needs to know right from wrong.¹⁶

Now, the paradox is thus resolved if we understand Mengzi and Xunzi to be describing the distinction between *actualised* and *unactualised* freedom, and not a dialectic of *abstract* freedom. When individuals lose their *xin*, it implies that certain socialisation and cultivation processes have gone wrong in their lives insofar as they lose their sensitivity, and insofar as they lose their knowledge of right and wrong. Indeed, when Li first arrived in the United States, he had no knowledge of the local healthcare plans. He, in stricter terms, was not socialised in the States. As such, he did not know what the right or wrong insurance plan for him was. He thus had not *actualised* his freedom even though he had *abstract* freedom. Similarly, when Mengzi was discussing individuals losing their *xin*, he was referring to how changes or the degradation of social values can desensitise man to the choices he makes. Thus, even though he is *abstractly* free, social conditions can render his freedom *unactualised*.

Both Li’s and Ni’s conception of Confucian freedom is rather Hegelian. In Hegel’s *Philosophy of Right*, he wrote that:

We are not one-sidedly within ourselves, but willingly limit ourselves with reference to an other, even while knowing ourselves in this limitation as ourselves. In this determinacy, the human being should not feel determined;

¹² Ibid.

¹³ Ni 2002, p. 131

¹⁴ Ibid., pp. 131-32

¹⁵ Li 2014, p. 906. Li borrows a feminist concept of freedom in conceptualising Confucian freedom. See also pp. 905-07.

¹⁶ Ibid., pp. 911-12. An interesting note here is that this view seems to push Li into accepting some form of moral relativism. Since the knowledge of right and wrong is largely a social process, it would mean that right and wrong are defined within a specific social context.

on the contrary, he attains his self-awareness only by regarding the other as other.¹⁷

We can understand Hegel here to say some self-imposed limitations constitute actualised freedom. Such self-imposed limits are arguably necessary for us to realise, or actualise, freedom. Freedom without such restrictions is merely *abstract*, or negative freedom that is juxtaposed with actualised freedom. In a Confucian context, we can see this “determinacy” as a form of “self-overcoming, self-cultivation, and self-realisation”.¹⁸ In many ways, Hegel and the Confucians thought that actualised freedom always comes with limits.

Hence, it is clear that Li’s conception of Confucian freedom consists of two important ideas. First, it refers to an individual’s choice and decision-making. Second, it is predicated upon a sociology that paradoxically provides the individual constraints and the knowledge that makes his choice and decision-making process intelligible. Li’s conception thus sets a ground for a political philosophy that safeguards individual freedom. He is concerned with the social parameters that both restrict and inform people of their choices insofar as it is meaningful to them. We must credit Li for his endeavours in procuring ground for a contemporary Confucian political philosophy that safeguards individual autonomy and freedom. My contention, however, is with Li’s stronger claim that Confucian freedom is manifested in “choosing the good”, or *ze shan* (择善).¹⁹ That is, individuals only *actualise* their freedom if they are *given* a choice to do good; *actualised* freedom is manifested in choosing the good.²⁰

3. Evaluating Li’s Conception of Freedom

I now move on to critique Li’s conception of Confucian freedom as reconstructed above. First, there is an inferential leap in Li’s argument. He argued that actualising Confucian freedom relates to choices and decision-making. These choices and decision-making processes are then limited and informed by a sociology. However, these do not necessarily mean that actualised freedom is manifested in an individual’s choosing of the good. It *can* be manifested as such, but not necessarily. Second, it seems counterintuitive to limit actualised freedom to merely choosing the good. It is one thing to say that individuals *can* only actualise their freedom when equipped with the competence to choose the good and another to say that individuals only actualise their freedom when they *do* choose the good.²¹ Li seems to conflate these two notions consistently throughout his essay. For example, he writes that “freedom is realised in choosing the good” while also saying that “the process of choosing the good is key to

¹⁷ Hegel 2016, p. 182.

¹⁸ Lee 1996, p. 369.

¹⁹ Li 2014, pp. 909-10.

²⁰ *Ibid.*, pp. 911-12. As Li similarly does so, I use ‘realise’ and ‘actualise’ interchangeably throughout the essay.

²¹ Li’s essay seems to conflate these two notions consistently. For example, he writes “freedom is realized in choosing the good” while also saying that “the process of choosing the good is key to understanding Confucian freedom” (Li 2014, p. 912).

understanding Confucian freedom". By delineating this ambiguity, I will show that the former has counterintuitive implications. Holding the latter does not necessarily mean that we ought to accept the former.

To justify why Confucian freedom cannot be restricted to merely choosing the good, let us consider several implications. One problematic implication with this conception is that it unnecessarily restricts our common understanding of freedom. Notice that Li and Ni are contending that freedom can *only* be actualised when one chooses the good. That is, choices that are not good, or choices that do not direct us to the good, are unfree choices.²² This idea of 'choosing the good' runs rather contrary to our intuitive understanding of how freedom is actualised. That is, they are saying freedom cannot be actualised if our choices never lead us to the good, and that we only actualise our freedom if our choices lead us to the good. To further illuminate this, let us consider a thought experiment.

The Confucian Matrix

Suppose you are living in this perfect world where you do not have to make bad choices. Referring back to Ni's example, suppose there are no drugs in this world for one to indulge in. One day, a man named Confucius comes along telling you that you are living in a virtual world: a Confucian Matrix. He then offers you two pills. The red pill will transport your mind back to reality, one less perfect and plagued with options which allow you to make bad choices. The blue pill will erase your memory, and you will remain in the virtual world.²³

If one were to accept Li's and Ni's conception of freedom, we ought to pick the blue pill. That is, we *ought* to choose to surrender genuine actualised freedom for the good. Notice that you are not more informed in one reality or the other. In both realities, you are well aware of the existence and the harms of drugs. But in the perfect reality, no one does drugs, and therefore drugs have no influence or impact in your life. In that sense, you are consistently 'choosing the good', i.e., not doing drugs. However, most of us would find this perplexing. This is because their conception of freedom compromises an everyday notion of freedom for one that necessitates choosing the good. Such a conception of freedom requires us to make a huge commonsensical concession.²⁴

Another explanation for why Li holds actualised freedom as 'choosing the good' is textual. An example is in Li's reference to texts which explicate 'choosing the good'

²² Now, Li would say that the uninformed choice is not a free choice. However, this is very different from saying that choices that are not good are not free choices. The latter is quite counterintuitive.

²³ Li pointed out that my thought experiment has an inherent bias. It is forcing us to consider a reality that we are living in and a reality that we *could* be but not living in. Indeed, Confucian philosophy rarely deals with hypotheticals and often is interested in real-world issues. This is a relevant problem that motivates future discussions. I will not be discussing this here.

²⁴ Their arguments are not without merit. Both authors intend to justify some form of curtailment in society. That is, to limit people's choices, they are in a better position to make choices which ultimately benefit themselves and others. In Li's essay, he needed this conception of freedom as the foundation to construct a Confucian concept of equality and justice. This is a rather Hegelian concept of freedom. But I attempt to accommodate their considerations with my new proposal of Confucian freedom.

and ‘holding to it’.²⁵ Specifically, he is attempting to justify the type of choices Confucians advocated in the past. For example, he quotes the *Zhongyong* – “the authentic person chooses the good and holds firmly onto it” – to justify the claim that actualised freedom is about choosing the good.²⁶ Similarly, he quotes Confucius: “I learn broadly so I can choose the good and follow it”. However, these texts are explicitly addressing how one *ought* to practice one’s freedom. Specifically, they address how one *ought* to choose *given* that they have adequate knowledge about their options. They are making normative claims of what we *ought* to do with our freedom, i.e., how we ought to make our choices insofar as they direct us to the good.²⁷ Here, Li made a subtle descriptive-normative leap in his interpretation of these texts. To say that actualised freedom is choosing with acquired competence is to make a *descriptive* claim about freedom. On the other hand, to say that freedom is choosing the good is to make a *normative* claim. Li’s initial proposal of actualised freedom is descriptive. As such, in equivocating ‘choosing with competence’ with ‘choosing the good’, he shifted from a descriptive account to a normative account.

Thus, if we are to take Confucian freedom seriously, we need to reconstruct a less radical view of freedom. In the next section, I will reconstruct Li’s stronger claim that actualised freedom necessarily manifests itself in choosing the good. I will argue for a more palatable account that actualised freedom manifests in the process of choosing itself. Particularly, I focus on the interactions of *xin* with our natural inclinations in the choosing process. In doing so, I maintain two things. First, I maintain that Li’s argument that freedom refers to one’s choosing, and that a sociology precedes such choosing. Second, I will allow that actualised freedom means choosing that which is not good. The second aspect of Confucian freedom should be less restrictive and more palatable. In doing this, I will emphasise the phenomenological aspect of choosing in conceptualising actualised freedom.

4. Freedom as a Consciousness of the Mediating *Xin*

In this section, I will argue that Confucian freedom should be understood as an experience of *xin* mediating our impulses to act.²⁸ ‘Impulse’ here could refer to desires or natural dispositions. For Xunzi, the unmediated *xin* acts purely on desires; for Mengzi, the unmediated *xin* acts purely on our natural dispositions, i.e., the four moral sprouts. Instead of understanding it as merely ‘choosing the good’, I argue that it is more palatable to see freedom as an experience *of* the choosing process. Similarly, Lee Seung-Hwan claimed that actualised freedom “can be achieved not by securing more options, but by overcoming one’s lower desires while spontaneously (as well as

²⁵ Li 2014, p. 910.

²⁶ *Ibid.*, p. 909.

²⁷ I am not saying that freedom needs to be solely descriptive. However, we have to first establish what freedom is. And the answer to that question is descriptive.

²⁸ I use ‘mediation’ broadly here. It could mean ‘subversion’, ‘prohibition’, ‘alteration’, ‘intervention’, etc. Due to the highly debatable nature of *xin*, I try to be as general and liberal with the use of ‘mediation’ here. For example, mediation for Xunzi could mean ‘subversion’ of desires. It could also mean an ‘alteration’ of reasons-desires. Nevertheless, it should not affect the contentions I am making.

intentionally) internalising community norms".²⁹ In a way, I am attempting to explain how one actualises one's freedom even during the process of gaining competency. Consequently, I deny that actualised freedom is merely choosing the good. Rather, it is an experience which arises when we are aware that we have choices.

I first invite us to recall a time when we were aware of our freedom: a time when we were conscious of being free. Some of us would point to a time when we had to make tough decisions. Some of us will point to the present time. Perhaps right now, when I am writing this paper, I am free to give up. Nevertheless, notice that being conscious of our freedom does not necessarily entail us making a discrete decision. Instead, freedom is being conscious that amidst many impulses, say, giving up on this paper, *xin* mediates these impulses: it stops me from acting *spontaneously* or *impulsively*. As such, we do not say that a bird is *free* as humans are. This is because birds only act on impulses; they lack *xin*. Humans possess *xin*, which functions to stop us from acting impulsively, i.e., mediate our impulses. This mediation manifests itself as a *choice*, or rather, an awareness that we can *choose*. Because we do not act impulsively for most of the time, we are often conscious of *choice*. Thus, if choice implies freedom, then it logically follows that mediation leads to the experiencing of freedom. To illustrate this point further, let us consider Xunzi's and Mengzi's views of *xin*.

Xunzi viewed *xin* as capable of making choices amongst the many desires we have. In Winnie Sung's words: "there is a range of possibilities for *xin* to choose from and some possibilities are associated with *qing* [情]."³⁰ Feelings constitute the background of possible factors for the consideration of *xin*".³¹ Throughout her essay, she uses the term 'deliberate' to describe the subversive function of *xin*. Similarly, I use 'mediate' to describe this function. Sung interpreted Xunzi to say that *xin* mediates its desires by allowing or disallowing them to be the reason for our actions.³² To clarify, let us consider an example. Suppose I desire fruit juice because I crave for a sweet beverage. Upon deliberation, that is *xin*'s mediation, I choose to get it not because I crave for sweet beverages, but because I need the vitamins fruit juice has. Here, *xin* mediated my desire for sweet drinks by disallowing it to be the reason for my getting the juice. Sung highlighted an important aspect of *xin* here: the 'choice' which *xin* made here is a manifestation of its mediating function. As such, the freedom which we experience, based on Xunzi's account, is not related to *xin* making choices, but rather *xin* mediating our desires (i.e., impulses). This mediation results in a choice, because *xin* 'chose' to disallow my desire as a reason to act.

I now move on to Mengzi's views of *xin*. His views are very different from Xunzi. The challenge here is to explain what does *xin* have to mediate if Mengzi believed that one's impulses would naturally lead one to do good. My response is that Mengzi's view of mediation is one that 'pushes' our natural moral inclinations into consistent actions. The choice involved here is whether to act on these inclinations or not. Mengzi viewed *xin* to consist of natural dispositions towards the good. In 6A:6, he made his

²⁹ Lee 1996, p. 369.

³⁰ *Qing* roughly translates to emotions or feelings.

³¹ Sung 2012b, p. 375.

³² *Ibid.*, p. 376.

famous metaphysical claim that *xin* consists of the ‘four sprouts’ which are the foundation for moral goodness. Answering the question: ‘what roles does *xin* play vis-à-vis cultivating these “four sprouts”?’ will highlight how *xin* mediates our impulses. Bryan van Norden responds that “all humans have incipient virtuous dispositions which they are capable of bringing into play via ... ‘concentration’ [i.e., deliberation]”.³³ Van Norden uses ‘concentration’ to reflect what Mengzi might refer to preventing *xin* from being distracted from our desires.

Now, what is the mediation which *xin* makes here? *Xin* chooses whether to ‘concentrate’ on its innate dispositions towards the good, or to *not* ‘concentrate’ and allow itself to be distracted by our desires. In other words, *xin* has a choice to maintain its self-consciousness or to allow itself to be distracted. It is mediating itself from being distracted. As a further illustration, I refer to Mengzi’s famous story of the child falling into a well in 2A:6. When we see a child in distress, Mengzi claims that our *xin* feels compassion in response to the child’s distress.³⁴ Our choice comes in whether to act under this compassion or to subdue our actions despite having this compassion. The former is what van Norden refers to as ‘concentrate’. Notice that Mengzi attested that we only have the *capacity* to do good. Actualising it requires our *xin* to mediate, specifically to stop, itself from ‘losing itself’. Thus, the freedom we experience here, i.e., whether to save the child or not, is experiencing *xin* mediating itself from being lost. That is why most of us would hesitate to do good even though we know so clearly that it is the right thing to do. At that moment of hesitation, we experience freedom.

From the two accounts, I establish that choice is a manifestation of *xin*’s mediating our impulses. As *xin* stops or encourages us to act in a certain way, we realise that we are confronted with a choice. When we realise that we are confronted with a choice, only then do we realise our freedom.

5. Freedom in Cultivation

I should have established that actualising freedom involves being conscious of *xin*’s mediation of impulses. Both Mengzi and Xunzi have highlighted that this mediation allows us to experience choice before *xin* makes any decisive choices.³⁵ I now turn back to the initial motive of Li and Ni in arguing that Confucian freedom is choosing the good. Their motivations are to argue for a sociological groundwork for individuals to actualise freedom in choosing and doing the good. For this, individuals require competence in exercising their freedom.³⁶ Previously, I criticised Li for making a descriptive-normative leap in his argument. In this section, I attempt to remedy this leap, preserving the idea that actualised freedom consists of giving individuals the

³³ van Norden 1992, p. 173. Translation of *si*.

³⁴ Mencius 2011, 2A6.

³⁵ I am cautious of my writing here. There is a difference in saying ‘conscious of choice’ and ‘making a choice’. The former describes the experience when we are confronted with options and are compelled to make a choice. There is no discrete choice being made. The latter describes the actual choosing. We cannot possibly make a choice without first being conscious of the choices.

³⁶ This concern is raised by Ni as well, as Confucian cultivation is oftentimes seen as a means to restrict freedom (Ni 2002, pp. 130-31).

competence to choose. To do so, I offer a conception of actualised freedom that emphasises Confucian cultivation of the individual's *xin*.

With my conception of freedom, I will now argue that Mengzi's moral cultivation aims at preserving one's freedom. First, Mengzi claims that one can lose one's *xin* when there are extenuating circumstances. For example, Mengzi said:

When they have a constant livelihood, they will have constant minds, but when they lack a constant livelihood, they will lack constant minds. When they lack constant minds, there is no dissoluteness, depravity, deviance, or excess to which they will not succumb.³⁷

That is, Mengzi claims that one can lose consciousness of one's freedom when circumstances are sufficiently harsh. This is not difficult to accept. In the state of extreme poverty, man often resorts to violence to survive. In such situations, he has no 'choice' but to steal or rob. However, it would be a mistake to assume 'losing one's *xin*' is necessarily a bad thing.³⁸ Similarly, I could, for example, be brought up in a society where giving to charity is the norm. As such, I would mindlessly give to charity every day just because it is a social norm. This is not necessarily a bad thing, but no one would say I was free in giving to charity if I were merely acting off impulse. Next, Mengzi's moral cultivation is to regain and 'hold onto' one's *xin*. Now, to regain and hold onto one's *xin* is equivalent to saying that cultivation involves preserving one's consciousness of one's freedom regardless of the circumstances. That is, in extreme poverty, we are still *free* in choosing not to rob. In a mindless society, we are still *free* in choosing not to give to charity blindly, but with purpose. Thus, in Mengzi's ethics, when one is free, one will naturally be doing good.

For Mengzi, there is no problem in condoning freedom because he held that human nature is good. Thus, when left to themselves and with complete consciousness of their *xin*, man will naturally act morally. However, Xunzi sees it differently. With a similar conception of freedom, I argue that Xunzi's moral cultivation involves rectifying our freedom.

Contrary to Mengzi, Xunzi does not think that *xin* can be lost. *Xin* itself is responsible for the impulses we have. Sung argues that "*xin* is naturally attracted to the objects of *yu* [欲] and is therefore predisposed to motivate action that pursues the objects of *yu*."³⁹ It is in this sense that *yu* can influence *xin*.⁴⁰ Second, we experience freedom – as I have contended – when *xin* deliberates/mediates on the reasons which justify our impulses. However, as Sung aptly observes, "just because [*xin*] is capable of deliberating and making the right decisions, it does not mean that [*xin*] must have some ethical predisposition".⁴¹ This is not so on Mengzi's account. As such, even 'good' actions based on deliberation are not considered good by Xunzi's account; it is of

³⁷ Mencius 2011, 3A3. Sung and van Norden also make similar observations.

³⁸ This is a mistake Li and Ni made when they advocated freedom as 'choosing the good'. Because one might be blindly choosing the good without due conscious of one's choices, it would be a mistake to say that freedom is merely 'choosing the good' when some form of consciousness is necessary.

³⁹ *Yu* roughly translates to desire.

⁴⁰ Sung 2012b, p. 381.

⁴¹ Sung 2016, p. 637.

moral luck that it is good. Based on this account, freedom in Xunzi's ethics is detrimental to society, as one can be conscious of *xin*'s mediation of impulses and yet still do evil. This is where Xunzi emphasised the role of *li* [禮], i.e., ritual-propriety, in moral cultivation. *Li*, in this sense, aims to reshape the freedom of the mind, to coerce it into not only taking into account self-interests but also the interests of others. "After [*xin*] is rectified by *li-yi*", says Sung, "one's focus is shifted from what interests the self to what is in accordance with ethical standards. Such a shift of perspective entails a 'bending [*qu* (曲)]' of the perception of oneself in one's engagement with others, and yet one's commitment to adhering to ethical standards also ensures that she does not improperly abase oneself or become servile".⁴² As such, we can see that Xunzi saw that our consciousness of how *xin* mediates our impulses requires rectification. I read Sung's 'rectification' here not as restricting but broadening said consciousness. That is, *li* is not aimed at changing or distorting *xin* but rather training it to be more aware of considerations during its mediating processes. If we are left conscious of our freedom in its primitive ways, we will be doing very bad things. A caveat here is that Xunzi is not saying moral cultivation requires us to restrict our freedoms but merely to rectify how we are conscious of our impulses: we should be allowed to choose, but amidst a broader set of choices.

Thus, both Mengzi's and Xunzi's views of human nature and *xin* should have broadened the Confucian concept of freedom. As we have seen, freedom as merely 'choosing the good' is insufficient in explaining the role of freedom in either Mengzi's or Xunzi's moral cultivation. I should have demonstrated that we need to see freedom as an experience which we are conscious of *xin* mediating our impulses. The value of choices, i.e., good or bad, plays a significantly lesser role in conceptualising freedom. Rather, they are a manifestation of *xin*'s process in mediating our impulses to act in certain ways. This last section should also show that Mengzi's and Xunzi's views of freedom in their ethical theories differ so widely because of their disagreements about human nature. Mengzi's theory condones freedom since humans are innately good. Cultivation is constantly reminding oneself of one's freedom. Xunzi's theory demands rectifying freedom since humans are innately vile. Cultivation is constantly broadening the set of reasons *xin* ought to deliberate on. Both of their theories, although dialectically opposing one another, aim at allowing individuals to 'choose the good': one by condoning freedom, the other by rectifying it.

6. Conclusion

At the start, I laid out Li's conception of Confucian freedom. In formulating one, Li argues that Confucian freedom is a form of actualised freedom, one that is meaningful and fulfilling. Such a freedom is distinct from abstract freedom. Confucianism looks not at maximising options for every individual but focusses on imparting meaning to the choices individuals make. Li's contention, then, was to argue that actualised freedom manifests in individuals' choosing of the good. I then argued that such a

⁴² Sung 2012a, p. 221.

contention is too counterintuitive, as it then suggests actualising freedom means to consistently choose the good. I contended that meaningful choices need not only manifest in choosing the good but also, and more in, developing a consciousness of our choices. As such, the value of those choices would matter less significantly than said consciousness. I have also discussed how Mengzi's and Xunzi's theories of *xin*, human nature, and cultivation support my argument. Thus, Confucianism could focus its efforts in cultivating said consciousness in individuals rather than a utopic society that allows individuals to consistently choose the good.⁴³

⁴³ I would like to thank Prof. Li in guiding and critiquing my works and ideas that made this essay possible. I would also like to acknowledge the efforts of four anonymous referees in commenting on my earlier draft.

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