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A recognition-sensitive phenomenology of hate speech

Critical Review of International Social and Political Philosophy

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ABSTRACT One particularly prominent strand of hate speech theory conceptualizes the harm in hate speech by considering the immediate illocutionary force of a hate speech 'act'. What appears to be missing from such a conception, however, is how recognition relations and normative expectations present in a speech situation influence the harm such speech causes to its victims. Utilizing a particular real-world example, this paper illustrates how these defining background conditions and intersubjective relations influence the harm of hate speech as it is experienced from the first-person perspective. This, more nuanced conception of harm, takes note of the effects such speech inflicts on an individual's recognitive status, and can provide a clearer understanding of the conditions necessary for an act of hate speech to cause the speaker's desired effect on their targets.

KEYWORDS Hate speech; racism; harm; recognition; Langton; Butler; Critical race

theory **Introduction**

One of the ways in which hate speech theorists have attempted to conceptualize the harm of one-on-one, verbally abusive forms of hate speech is by employing J. L. Austin's (1962) speech-act framework. By considering individual instances of hate speech as illocutionary performatives, such theorists, (feminists such as Rae Langton (1993, 1998, 1999), Catherine MacKinnon (1991, 1993, 2000)) and Mary Kate McGowan (2005, 2007, 2009a, 2009b, 2012) and critical race scholars such as Mari Matsuda (1989, 1993), Richard Delgado (1982, 1993, Delgado & Lederer (1995), 1996, 2009) and Lawrence (1990) reject the classical liberal belief that speech cannot correctly be categorized as a form of conduct. The liberal conception itself has often been criticized for failing to account for the devastating effects hate speech can have on its victims, and so the proposed conceptualization of hate speech as an illocutionary act aims to highlight the immediate status-ordering impact of an act of hate speech. However, this conceptualization has not been universally accepted, with theorists such as Judith Butler (1997) claiming that, because of the fluid and unpredictable nature of speech-acts, it is nigh impossible to 'pin down' any specific meaning or norm-derived effects of such an act. This potential impossibility is problematic as, if we are to properly identify hate speech through highlighting the devastating status-ordering harm such speech can inflict on victims, it is essential that we address the contextual conditions involved when a speaker verbally assaults her victim. Though sympathetic of the intentions of those who employ the speech-act perspective, Butler warns that this method, if used to defend legal intervention in hate speech, could itself be used to further the oppression of vulnerable groups (1997, p. 103). Though Butler's aim is not to provide a comprehensive theory of the harm of hate speech, her claims regarding the downfalls of the illocutionary perspective are illuminating. If we accept her legitimate concerns regarding the unpredictability of meaning, it means that conceptualizing hate-speech acts as illocutionary is entirely mistaken, that this illocutionary view neglects the idea that there is nuance in interpretation, and as thus is a counterintuitive move if we aim to identify and eradicate the harmful effects of hate speech.

Accepting this need to address ambiguity in meaning, however, and though both the Butlerian and the feminist/critical race views both highlight the need to tackle the harmful effects of hate speech, neither provides the requisite conceptual tools required to examine the intersubjective experience of the victim, including how they recognize the normative authority of the hate-speaker, in the successful completion of an act of hate speech. This paper aims to solve this theoretical conflict, through examining these competing approaches of hate-speech-act theory from the first-person, phenomenological perspective. In contrast to the phenomenology school of thought, made famous by theorists as diverse as Husserl (1982[1913]) and Sartre (1956[1943]), this paper utilizes a broader

approach in understanding the experience of the first-person perspective. Here, we consider how an individual might recognize those with which they interact in a speech situation, in particular how they respond to the normative expectations and claims made upon them and, more importantly, whether or not they recognize their interlocutor as holding the relevant authority required to make certain claims upon them. In contrast to current approaches to hate speech theory, which consider how abuse impacts either an individual's psychological health or her social status, the stance argued here focuses on the kind of conditions necessary for a victim to reject the harmful claims made upon them. So, by considering how the recognition of speaker authority in enacting norms of subordination is influenced both by background social relations and, relatedly, the relative normative authority of the speaker, this paper will uncover, from an identity-formation perspective, how these fluctuating variables shape and influence the experience of harm to the hearer.

Matsuda, Langton, and Mackinnon: understanding the status-ordering discursive power of hate-speech-acts

Sensitive to the potentially profound psychological and sociological harms hate speech inflicts on its victims, the theorists above attempt in their work to understand this harm through the lens of Austin's (1962, p. 100) distinction between illocutionary and perlocutionary speech-acts. Briefly explained, Austin's theory asserts that we can categorize as illocutionary those speech acts that exert immediate changes in states of affairs. As such, when a celebrant pronounces a couple as legally married, or when a judge sentences a defendant, the words expressed by these figures actually do something through their pronouncements. These need not take place in a legal context, though do depend upon convention or the presence of certain 'felicity conditions' in order to be 'successful' (1962, p. 136).² Secondary to the 'force' of an illocutionary speech-act are the perlocutionary 'effects' of the act. In the case of the marriage ceremony, the perlocutionary effects of the pronouncement could be the inspired happiness of the newly wedded couple. In the case of the courtroom scenario, the perlocutionary effects might include the induced fear or anger of the sentenced defendant.

Utilizing this Austinian framework, then, the theorists above assert that hate speech, far from merely producing certain ill side-effects in their expression, actually behave like illocutionary performatives, and as such ought to be categorized as a kind of harmful action. Along such lines, the illocutionary force of hate speech exists in its ability to enact, reinforce, and perpetuate certain status-ordering norms relating to the relative social status of affected groups in society (Maitra, 2012). As thus, we see in the work of feminists such as Catherine MacKinnon (1991, 1993, 2000) and Rae Langton (1993, 1998, 1999, 2012) the idea that the proliferation of pornographic material in contemporary society actually constitutes and informs the norm that women occupy a low social standing compared to men. The non-interference of the state in the distribution of pornography signals, according to such theorists, a publicly justified endorsement of such norms (Langton, 2012, p. 78). In addition, the easy accessibility of such material suggests that the potential for abuse or oppression of women to occur either in the making of such material or in the wider, desire-shaping influential impact upon the men who watch it are non-issues, that women deserve this sort of degrading treatment, or that they do not count as equal persons at all (Langton, 2012, p. 83).

Similarly, critical race theorists cite the immediate status-ordering nature of racist hate speech, again drawing our attention to the capacity of such speech to behave as a subordinating, status-ordering act (Matsuda et al. 1993). This attention to norm-influencing can be compared to the type of law prohibiting discrimination based on group membership. Such laws are designed to target those acts which betray a liberal commitment to neutrality, equal respect, and equal dignity of all human beings. Along such lines, when an individual is denied employment, housing, access to education, and so on, on the basis of certain protected characteristics, then that act of refusal constitutes an unjust act of discrimination. This attempt to link hateful speech with acts of discrimination, as conceptualized through the utilization of the speech-act theoretical framework, aims to highlight the profound and devastating harms such speech inflicts upon individuals, and asserts the view that these forms of speech should not be protected under the First Amendment. Instances of hate

speech, such theorists argue, should not be categorized as purely metaphysical matters, banished to the realm of private conscience, but should be considered as a form of harmful and subordinating action. This view is easily comprehensible: words matter, and speech has the potential to do things deemed impossible without an initial utterance taking place. Beyond the discriminatory and status-affecting impact of hate speech, such abuse also often has long-term consequences relating to a victim's positive sense of self (Adelman, Helmers, McGowan, & Stolzenberg, 2011; Matsuda, 1989). Continued exposure to such derogatory and subordinating speech-acts has the potential to permanently alter the self-respect, self-esteem, and sense of self-determination of targeted individuals, as seen when individuals from such affected groups ultimately 'internalize' feelings of inferiority, thus affecting their capacity to participate in public life on an equal footing with the rest of society (Delgado, 1982, 1993, Delgado & Lederer, 1995; Langton, 1998, 2012; MacKinnon, 1993; Maitra, 2012; McGowan, 2005, 2009a, 2009b, 2012).

Moving beyond debates about pornography towards other forms of discriminating and subordinating speech-acts, Langton herself employs this illocutionary-perlocutionary distinction in order to examine racist speech (1993). An example used by Langton to illustrate this form of speech-act is the type of discriminatory speech used in apartheid South Africa against the black population. When a legislator makes the statement 'Blacks are not permitted to vote', so she argues, they are performing an illocutionary act that actually constitutes an act of discrimination (1993, p. 302). Along these lines, utterances such as these do not merely cause subordination to occur as a secondary effect, but ultimately place black individuals within a low social status in South African society during the speech-act's very performance. The act is thus an act of subordinating, status-ordering discourse. This sort of utterance, however, is considered an illocutionary action only under certain conditions. Crucially, the statement is accompanied by certain concrete social structures and background conditions which allow the act to have any meaning. Most notably, the utterance holds weight due to the official authority of the speaker (Langton, 1993, p. 304). Without the power to enact such a law, the statement, though discriminatory, would not be legally binding. Without the existence of such conditions, stating the phrase 'Blacks are not permitted to vote' would not, though racist and greatly offensive, actually 'succeed' in taking away the black individual's right to vote. Under an Austinian conception of racist speech as an illocutionary act, then, such relevant authority is categorized as the kind of felicity condition necessary in order for a speech-act to be successful.

Though the speaker in the apartheid case may not hold the relevant 'official' authority required in order to enact a change in the law, his speech, according to Langton, may nevertheless acquire the sort of non-official legitimization to effectively demote black South Africans to a relative low social status (Langton, 1993, p. 302). This point is key in discussions of hate speech, where the vast majority of contemporary cases are concerned not with the enactment of racist or sexist laws, but with the authorization of a certain hierarchy of status of vulnerable groups. Thus, norms of misogyny and sexism legitimized by pornography relate to the ways in which the nonofficial authority of pornographers, producers, sellers and buyers reinforce a norm that denigrates women in society. Invoking David Lewis's description of 'language games' (1983), Langton notes how hate speech can become legitimated through the practice of presupposition accommodation. As such, when someone makes the statement 'Even George could win', they are making the suggestion that the likelihood of George's success in a particular competition is low (Langton, 2012, p. 87). When nobody steps in to contest this claim, so Langton notes, the speakers have accommodated the proposed presupposition about George. This lack of intervention in the so-called 'language game', then, thus legitimizes the speaker's claim. In the same way, a lack of intervention in matters of hate speech results in the reinforcement of the presupposition made in the racist or sexist expression. Status-ordering speech, then, need not reside in the hands of a state-sanctioned authority in order to have illocutionary force.

In response to such arguments regarding the illocutionary force of hate speech, Judith Butler (1997) also considers speaker authority as a necessary felicity condition in the successful performance of an act of hate speech. Resting on her account of performativity, Butler offers a persuasive argument against the illocutionary-perlocutionary method of understanding the harm of words. Considering the

Austinian focus on the immediate harm of a hate-speech-act, and though recognizing that an utterance can no doubt cause considerable distress for a victim, Butler argues that we must consider how the meaning and convention behind such words is dependent upon their deep attachment to the larger cultural relations from which they emerge (1997, p. 3). The meaning and impact of certain types of words, then, is distinctly ritualistic in nature, and as thus we cannot consider the harm of hate speech through categorizing such instances as discrete ‘acts’ of force. Rather, the moment at which an utterance is made ‘exceeds itself in past and future directions, an effect of prior and future invocations that constitute and escape the instance of utterance’ (1997, p. 3). The historically embedded meaning of an utterance, then, reveals the difficulty in identifying and attempting to eradicate the relevant conventions or ‘felicity’ conditions required to successfully categorize it as an illocutionary act of hate speech. Because neither the speaker nor victim have complete control over the meaning of the words used, and due to the unavoidably discursively formed nature of hate speech, the Austinian reliance on identifying certain felicity conditions proves to be an untenable method of dealing with the harms of hate speech.

As a further critique of critical race and feminist approaches to hate speech theory, Butler also highlights the practical dangers in utilizing the speech-act framework to influence legal intervention in the pursuit of eradicating harmful words (1997, p. 103). As the meaning and weight of particular harmful utterances depends on their historical significance, the legitimization of state power as a response to its harms opens up the possibility for the reification and further-entrenchment of the oppressive norms of which they support. As an illustrative example, Butler unpacks the ‘Don’t Ask Don’t Tell’ policy via her critique of the closing conceptual gap between speech and action. In this policy, she notes, ‘the verbal reference to or depiction of sexuality is considered tantamount to a sexual act’ (1997, p. 76). Those who reveal their sexuality through expression, then, are vilified and punished by those who proclaim to protect them. The politicization of the sexuality of members of the armed forces means that the very expression of one’s sexuality is thus deemed a sexual act, and one that perpetuates the oppression and vulnerability of those who dare reveal it. Recognition of the impossibility of ‘pinning down’ the intention and effects of speech, then, proves inescapable in our formulation of a response to the harm of speech.

Far from discarding the Austinian typology altogether, however, Butler instead trains her focus on responding to the negative ‘perlocutionary’ effects of speech (1997, p. 17). Putting legal intervention to one side, Butler proposes a more subversive method for victims to deal with abuse. Taking advantage of the fluidity of meaning in speech, she outlines a form of ‘resignification’, in which the injury of hate speech is rejected and defused through attempts at detaching it from its historically embedded meaning (1997, p. 19). As discussed in her analysis, we can see expression of this method of resignification through the reclamation of the ‘N-word’ by the rap community, as well as the term ‘queer’ by the LGBTQ+ community (1997, p. 74, 100). This method, intended to work on a non-formal, day-to-day level, aims to ‘rob’ historically attained power from such harmful terms, without deferring to the formal mechanisms of the state to reduce their ill-effects on vulnerable communities.

Butler’s critique of the speech-action distinction, then, reveals crucial shortfalls in the critical race and feminist reliance on the illocutionary categorization of hate speech. Central to this analysis is the way in which the required felicity conditions often escape identification and clear interpretation. However, and though it is not Butler’s intent to provide a comprehensive framework for the ways in which the perlocutionary effects of speech harm individuals, her method fails to adequately consider the conditions under which non-official speaker authority influences the resultant harm of a particular utterance. This is important, particularly if we are concerned with the reconceptualization of historically and culturally embedded terms through our day-to-day interactions with others. In order to rob such utterances of their power, then, we must consider how the intersubjective relations between speaker and victim determine the potential perlocutionary effects of a harmful communicative exchange.

Recognition, authority claims, and the ability to inform subordinating norms through status-ordering discourse

This section will consider the phenomenological experience of an instance of hate speech from the first-person perspective of the victim. The lens through which we will uncover the relevant features of an act of hate speech will be through understanding the intersubjective cognitive nature of the act. In terms of my chosen conception of recognition for this paper, I take as my starting point the claim, qua the tradition propounded by theorists such as Charles Taylor (1989, 1994) and Axel Honneth (1992, 1995, 2012) that human beings require some sort of recognition in the form of equal concern and respect from others in order to develop a healthy sense of self, including a self-reflective level of self-esteem and self-respect. As such, and although this paper employs similar ideas to those utilized by Taylor and the like, I am focussing less on political recognition of group status per se and more on how, at the individual level, one comes to form a belief about oneself as holding the status of a full and equal person within the society in which they live.

Recognition, in the sense employed here, concerns one's fundamental normative status among others, and as such operates within a complex web of social relations. Accepting the basic tenets of recognition theory, I take for granted the notion that individuals require some form of basic respect from others on account of their equal moral status as human beings. Along such lines, and accepting the view that we require some basic level of respect recognition for positive identity-formation, it would not be controversial to state that much of our self-conception stems from our experiences of intersubjective communicative acts. The dialogical nature of human identity means that our sense of self is formed through such interactions with others, and it is the structure and contextual conditions surrounding the act which inform and shape the effect of the act on an individual's cognitive status, or, as Taylor notes, through the 'webs of interlocution' forming the framework of our communicative acts (Taylor, 1989, p. 36). As thus, we can severely suffer the ill-effects of misrecognition if we are denigrated or subordinated through the things that others say to us. Similarly, we can come to hold a continuously negative opinion of ourselves if we are repeatedly bombarded with unwelcome insults from others, particularly when they are relating to certain immutable characteristics about our person. A preliminary conclusion we might gather here, then, is that the harm to our cognitive status of an identity-based verbal assault is considerably greater than the misrecognition experienced for certain accidental characteristics about ourselves.

Given the clear connection between intersubjective communication and cognitive status, the inclusion of a recognition-sensitive framework is surprisingly largely neglected in contemporary discussions of hate speech. As we see from the debate above, there is considerable disagreement over the type of harm suffered when an individual is at the receiving end of a verbal assault. On the critical race/feminist view, the illocutionary force of a targeted hate-speech-act automatically places the victim within a diminutive social status, with the perlocutionary effects of this ordering ranging from psychological trauma and physiological expressions of distress, towards causing victims to fear for their safety within society and, as a result, choosing not to participate within certain areas of public life, based on a belief that the views of the hate-speaker are in some way representative of wider society (Delgado, 1982; Matsuda et al., 1993, MacKinnon, 1993; Langton, 1998, 2012; Adelman et al., 2011; Maitra, 2012; and McGowan, 2005, 2009a, 2009b, 2012). We can easily translate this language into recognition terms, with the impact of such an act representative of an explicit act of misrecognition. However, as illustrated through the debate discussed in the first section, there are clear issues with the automatic categorization of hate speech-acts as being illocutionary in nature.

Although there are several problems with Butler's conception of the fluidity of social structures, as well as in her positive prescription of the 'resignification' of hateful speech-acts, Butler is right to point out the inconsistencies in the critical race/feminist view that all acts of hate speech are illocutionary in nature. Butler conceptualizes this argument in her notion of a 'gap' between the act of hate speech and its subordinating effects, noting how,

[i]mplicit in this distinction [between perlocutionary and illocutionary acts] is the notion that illocutionary speech acts produce effects without any lapse of time, that the saying is itself the doing, and that they are one another simultaneously. (Butler, 1997, p. 17)

Although Butler most likely places too much emphasis on the role of the individual in combating the ill-effects of the act within this ‘gap’ (Lovell, 2003), her theory raises some important considerations concerning the immediacy of this subordination as proposed by the critical race and feminist theorist conceptions. Here, then, we can clearly state two essential problems with both the critical race/feminist and Butler’s formulation of hate-speech-acts.

First, the critical race/feminist theorists mentioned mistakenly categorize all hate-speech-acts as belonging to the category of illocutionary acts. Although they are clear in admitting that not all hate speech-acts are ‘successful’, in that they do not all deliver the intended result of the speaker, categorizing the acts in this way does not allow us to adequately consider which background conditions and normative structures must be in place in order for the act to be harmful. This move by the critical race/feminist theorists, I believe, is intended to remove questions of responsibility away from the victim in order to avoid ‘victim blaming’, wherein the target could be thought to have had some measure of moral blame over the harm they received. Considering subordination as a perlocutionary effect rather than an act of illocution, however, does not necessarily imply that the victim has had any choice in the harm that they suffer, but provides us with the conceptual tools necessary to properly identify and rectify those background normative conditions of which the harm is founded upon. Secondly, and although Butler rejects the illocutionary view, she too fails to adequately address these background conditions due to her belief in the impossibility of the ‘pinning down’ of social structures and speaker meaning (Butler, 1997, p. 34).

Though Butler’s awareness of a ‘gap’ in meaning is useful in situations where a hate-speech-act fails to deliver on the original intention of the speaker, an understanding of the conditions conducive to the unreliability of meaning should nevertheless be pursued. In both theories, then, a refusal to properly interrogate the relevant defining features of an act of hate speech actually harms our pursuit of a full, embodied understanding of how hate speech impacts individuals and of what we can possibly do in future to mitigate its effects. Along such lines, a third way needs to be considered. This concerns how the conditions involved in an act of hate speech impact the victim’s sense of recognitive status during the proliferation of such an act. As mentioned above, this paper does not have the space required to conduct an extended analysis of all forms of hateful speech-act, most notably, I will be leaving out questions concerning the ‘hostile environment’ thesis of hate speech (Waldron, 2012), wherein the continual exposure to derogatory or demeaning stereotypes and attitudes not only harms an individual’s sense of self, but severely impacts an individual’s social standing within the wider community. There is no doubt that the ordering of social status occurs external to the individual, but the particular effects with which I am concerned here relate specifically to those influencing the individual’s relationship to herself as a result of being at the receiving end of such an act. The recognition-sensitive perspective employed here aims to go some way towards solving this issue.

In addition, understanding the harm in hate speech through a recognition perspective echoes a long-standing, yet currently neglected, phenomenological tradition within the philosophical literature. We might consider, for example, Franz Fanon’s description of an interaction on a train between the black narrator and a small white child. In the example, the child points to the narrator with a mixture of shock and fear, exclaiming to her mother ‘Mama, see the Negro! I’m frightened!’. In response, Fanon reports the following feelings,

Frightened! Frightened! Now they were beginning to be afraid of me. I made up my mind to laugh myself to tears, but laughter had become impossible. I could no longer laugh, because I already knew that there were legends, stories, history, and above all historicity. . . (Fanon 1952 [1986], p. 87)

As we can see from this particular, intersubjectively focused example, the narrator's emotional response at being viewed through the eyes of another through the culturally embedded lens of the 'Negro', and all that this identity was associated with, reveals feelings of great humiliation and distress. Aware of the inescapability of his blackness in the eyes of others, the narrator is forced to deal with widespread misrecognition in a racist society. Along such lines, we can see how this misrecognition is deeply harmful to the narrator's sense of self.

Though closely tied to the diminutive social status of blacks in American society at the time of writing, the harm experienced here from a recognition, identity-formation perspective operates differently to the kind of harm conceptualized by other theories of hate speech. In particular, a recognition perspective does not rely on the speech-conduct relation central to the feminist and critical race theoretical views. The ill-effects of such abuse, in line with Butler's conclusions, do not match the immediate, illocutionary impact of their analysis. As Fanon's book later examines (1952 [1986], p. 163), involved in the narrator's experience of such reactions from others is a continual struggle against the misrecognized stereotypes of his black identity. And, in a sentiment that closely mirrors Butler's method of resignification, Fanon stresses the ongoing task of the oppressed to break down and respond to the harmful norms to which they are subjected to. Far from being immediately status-ordering in nature, the intersubjective perspective further reveals hope for the 'taking back' of a black identity against the indices of power from which their identities have historically emerged. Again, this notion of response in the process of normative exchange is served by examining hate speech through a recognitive lens. If such speech does not behave like an illocutionary performative, under what conditions does the speech in question undermine a victim's social status in a way conducive to misrecognition? Fanon's thesis reveals the distinctly interactive nature of recognitive exchange, where the claims made upon us by others, far from producing immediate illocutionary force, rather become included in our struggle for normative authority (McBride, 2013, p. 136). In the following contemporary example, then, we will consider how this struggle operates in a case of explicit, racist abuse. Doing so will shed light on the complex ways in which recognition relations play out in our communications with others, further supporting the view that the illocutionary-perlocutionary framework lacks the tools necessary to respond to instances of hate speech in a comprehensive and pragmatic way.

The example

On October 13 2015, three immigrant Muslim women travelling on the 206 bus in London were subject to a racist and xenophobic verbal attack by a fellow passenger. The victims were all wearing traditional Muslim dress, including headscarves, and were speaking among themselves in Arabic at the time of the attack. The racist exchange was recorded on a mobile phone by a random fellow passenger. The attacker, Simone Joseph, launched an unprovoked tirade of abuse at the women, calling them 'sand rats', accusing them of concealing bombs under their clothing, and stating, I don't f**king like you people because you're f**king rude. You come to England and you have no f**king manners. Go back to your f**king country where they're bombing every day. Don't come to this country where we're free (October 19 2015, BBC). In addition, Joseph also threatened to kick one heavily pregnant member of the group in the stomach, stating 'you'll never have a baby again'. In unpacking this particular case, this paper will focus on the individual experience of this main target of the abuse. How can we interpret this instance of racist abuse using the first two theories described above?

More generally, we can infer that such an overt act of hate speech was a deliberate attempt on behalf of the speaker to publicly intimidate and deride the women on the basis of their shared religious and cultural identity. Although we cannot be absolutely certain about the intention of the speaker, the language used and its abusive delivery overwhelmingly fit the commonly accepted criteria of an overt act of hate speech. The psychological reasons which lead to committing such an act of abuse are complex, but it would not be precarious to suggest that the speaker in such an overt,

explicit act of racist abuse is aiming to harm the victim in some way through the expression of her own beliefs about Muslims. Now, under a broad interpretation of the feminist and critical race theorist conceptions of hate speech, the immediate illocutionary impact of such speech would involve the act of actually placing the victim within a subordinate social position through the act's performance. As discussed above, however, we can reject this immediate social ordering in such cases of non-'official' speaker authority, and instead categorize this normative ordering as one of the negative perlocutionary effects of the act. Contra Butler, however, this kind of social ordering is possible following an act of hate speech, even if it is considered a perlocutionary effect rather than constitutive of an illocutionary act.

Authority claims and subordinating, status-ordering discourse

First in our analysis, we will consider the authority of the speaker, exploring how the kind of authority recognized by the victim towards the speaker influences the kind of harm they suffer to their recognitive state. As we saw in Langton's apartheid example in the first half of this paper, the illocutionary impact of the speech of the legislator enacted a literal taking away of the voting rights of black people in South African society (Langton, 1993, p. 302). Now, if the statement made by the legislator did not signal an actual discriminatory change in state policy, but instead simply expressed a racist opinion of the legislator, such as 'Blacks do not deserve to vote in this country', the legal enactment of the policy change would not have taken place, but the statement would nonetheless have caused devastating harm to members of the black community. This is due to the fact that, in making such a statement from a position of official authority, the legislator's words would represent an attempt at the widespread misrecognition of the equal moral status of the black population.

On hearing such a statement, black individuals will come to believe that such views are representative of a vastly sizeable proportion of the community. This is not just due to the ability of the legislator to speak from a widely visible platform, but also lies in the social norms present which inform relations between legislators and the general public. The nature of the role of legislator comes with certain expectations, including a belief that those individuals hold a certain level of expertise and power compared to other high profile individuals (such as sports stars or celebrities, for example). The nature of this role means that citizens in general recognize legislators as holding the relevant knowledge about the inner-workings of their society, and, although such a statement would not be universally endorsed across an apartheid state, such statements would give license to already existing racists to be less concealed in their hatred towards minority groups. From the experience of black individuals hearing such a statement, they will nevertheless suffer from an acute harm to their sense of self-respect and self-esteem. As thus, the statement by the legislator is likely to induce in black individuals the debilitating and disenfranchising effects of misrecognition described above. The relevant authority of the speaker in this case means that, in these circumstances, the speaker has the (very likely) potential to cause serious damage to the identity formation of affected individuals. The apartheid example represents one of the more obvious cases of the influence of authority in harming victims through hate speech. In the bus example, however, things are more complex.

Again, many of the conditions here will rest on empirical considerations, but, in general, we can ascertain several fundamental features of the act which lead to the harm of the recognitive status of the victim. First, how might the victim experiencing the act recognize the authority of Simone Joseph? As a random member of the public, it is unlikely that the victim will recognize Joseph as holding any official position of power within British society. But can Joseph nonetheless be thought to represent the views of the surrounding community? Through hearing Joseph's accent, and by the nature of the language used, it would be reasonable for the victim to deduce that Joseph was a British citizen who lived locally. This gives Joseph some authority in speaking 'as a British person'; though, as a member of the public rather than a recognized public official (such as the apartheid- era legislator), it is not clear that her authority in this capacity will be legitimized. Here it makes sense to consider those random cases of abuse in which it is clear from the perspective of the victim that the

speaker is not speaking on behalf of the surrounding community. We can imagine cases where an individual is randomly abusing others in public, yet it is clear that they are not of sound mind, either through illness or through apparent intoxication. Although it is not always clear in such scenarios when the abuser is in such a position, these cases are relatively common, and, although the abuse still consequently wrongs the victim, it is not certain that their recognitive status is harmed. Why might this be the case? As mentioned above, the type of harm of which I am concerned with in this paper is the misrecognizing harm to the positive identity formation of the self, where this includes the kind of self-respect formed through intersubjective communication with others. When an individual is misrecognized and thus denied equal moral status by others, they do so through the belief that the object of their misrecognition really does consider them to be unworthy of equal moral status. If a victim of abuse disregards the authority of the speaker completely, through believing that the speaker does not really mean what they say, then it is unlikely that their recognitive status will be threatened, even if they have been wronged by experiencing the act. The Muslim woman who was victim to abuse by Joseph, however, could have interpreted the authority of Joseph in several ways. First, she can reasonably infer that Joseph was neither intoxicated nor mentally unwell at the time of the attack. This cannot be certain but, due to the time of day of the attack, the apparent sobriety of Joseph, and as she was with her child in a pram, it would be reasonable to infer from the situation presented to the victim that Joseph was speaking sincerely in this case.

What other factors determine the kind of authority recognized in Joseph by the victim? This is where we must consider the victim's experience of the background social conditions of the community, including her belief in the social status of Muslim immigrants in British society. In order for the victim to comprehend the racist sentiment in the language used by Joseph, she must have prior knowledge of the unequal social position occupied by Muslim immigrants in British society. It is not possible to know for certain how aware the victim was of this issue (she may have very recently immigrated to the UK), but an examination of the testimony of the victim in the police report suggests that she was aware of the attempt made by Joseph to reinforce and perpetuate disdainful attitudes towards the Muslim population of Britain with her comments. Again, recognizing Joseph as a local, the victim was aware that Joseph was making an attempt to harm her equal moral status within the community. The public nature of the aggression, which includes 'Othering'-oriented statements such as 'Go back to your f**king country' and 'Don't come to this country', suggests that Joseph is attempting to communicate the prevailing norms of British society. In an attempt at exercising normative authority, Joseph expresses her desire for the removal of the 'Other' from a shared social space. From the perspective of the victim, then, the derogatory language used by Joseph does fall in line with a particular attitude present across certain sections of British society. The victim thus recognizes the relevant authority of Joseph as speaking on behalf of those who agree with anti-Muslim sentiments, where victim knowledge of the relative social status of immigrant Muslims in British society supports the view that such ideas are relatively commonplace. The abuse directed at the victim from Joseph, then, signals a harmful act of misrecognition, where such misrecognition involves a denial of the equal moral status of Muslims. Targeted towards an individual, this will have a negative and harmful effect on the self-respect and self-esteem of the victim. As noted by McBride,

Relations of recognition and misrecognition lie at the intersection of the personal and the political. While the experiences of disrespect and disesteem may be sharply personal, relations of recognition and misrecognition presuppose a larger socio-historical context: a context of stereotypes and prejudices and expectations. (2013, p. 26)

What other factors determine how the victim might interpret the relevant authority of the speaker in this scenario? Similar to the example of the intoxicated abuser, we would also consider it odd to have our recognitive status harmed through being called a name by a three-year-old. This is not necessarily because we don't believe in their sincerity, but because we do not recognize them as having the relevant knowledge necessary to pass such a judgement on our equal moral status. Another reason

why we might not be harmed through being verbally abused by a child is that, similarly to the intoxicated person described above, we realize that they are at the mercy of their emotions and as thus lack the self-reflectiveness which comes with having certain mental capacities. This feature of authority recognition, then, comes down to reasonable expectations of behaviour. Playing by the normative rules of the community is conducive in the game of intersubjective recognition. Children are not aware of these rules, and so say whatever is on their minds. This does not seriously harm our recognitive status as we do not recognize children as equal players in the game, so to speak.

Further, the nature of our normative rules and expectations is closely tied to speaker authority. So, apart from the status-ordering described in the first section of the paper, an attempt by the speaker to betray or change the normative rules also harms victims through misrecognition. We see this phenomenon play out endlessly in our day-to-day interactions with others. Disregard for the ordinary rules of politeness can result in the victim feeling disrespected, and is often a sign that the perpetrator has indeed shown little respect for those affected (Buss 1999). If these (seemingly benign) acts of disrespect become a commonplace experience of the victim, it is not unreasonable for the victim to link such acts to a wider societal lack of respect for their inherent identity, as seen in the literature on so-called 'microaggressions' (Sue, 2010). So, although such acts do not offer the immediate threat posed by overt and explicit acts of racism, they nonetheless do significantly harm the positive identity formation, self-respect, and self-esteem of those affected. The normative frameworks guiding our interactions with others thus play a key role in our quest for positive recognition. As mentioned above, speaker authority and normative rules are closely tied, though they are not always given equal weight. Generally, we have different normative expectations of others depending on the social situation and the nature of our relationship with them. We are, on the whole, more honest with those closest to us, as the loving nature of the relationship provides a safe space within which we can more often reveal our innermost thoughts and feelings. As thus, we might be mildly annoyed when our mother passes comment on our decision to eat a chocolate bar for breakfast, yet due to the intimate nature of the relationship we can easily brush this off without any significant damage being made to our recognitive status. However, when a stranger on the train shames us for eating a chocolate bar for breakfast, we may feel considerably more angry and disrespected. This is partly due to the normative expectations involved between strangers on public transport. In our own society, it is considered extremely rude to comment on the eating habits of strangers (Buss, 1999, p. 820). Apart from the norm regarding commenting on others' food choices, such interactions on public transport are rare. This gives extra weight to the feelings of disrespect experienced through receiving such a comment. The individual may feel personally attacked, that they have been picked out as an 'easy target' for ridicule, or that the speaker is negatively commenting on their appearance. The speaker's condemnation of our food choices appears to be an attempt at making a claim upon us in relation to our behaviour, in a fashion which could quite clearly be described as paternalistic. And, for the same reasons that many argue against paternalism as indicative of a lack of respect, we see how such an intervention into the private decisions of another individual is connected to this struggle for the assertion of normative authority. And, though the same comment was made by the mother and the stranger, the recognitive harm appears to be significantly greater in the case of the stranger. Here, the rules informing normative expectations have been broken, something which signals a lack of respect for the victim and as thus represents an attempt at harming their recognitive status.

In the bus example, then, the kinds of expectations the victim might have of the other passengers also give weight to the kind of harm to recognitive status they experience during the attack. This point is complex, and, though we do not have adequate space to discuss it here, we can say that it raises questions regarding the responsibility of onlookers to intervene in cases of overt abuse. In the case of Joseph, the victim is one of three friends all subjected to the targeted attack to some degree. As the other two women were also verbally abused, it makes sense that they did not respond to Joseph for fear of potential violence or a further verbal attack. What of the other passengers? In this scenario, nobody intervened. Does this lack of action signal a form of disrespect in itself, even if the victim does not necessarily believe that the onlookers agree with the views

expressed? Here, we must attempt to unpack the normative context relevant to the situation: that of a bus ride of strangers on a public London bus. In general, it is not usual to participate in conversation with strangers on public transport in London. The cultural norms present in such scenarios dictate that most individuals do not wish to interfere or be interfered with by strangers when they're on the bus. As such, it is not unreasonable to expect that, because of such norms, it is unlikely that a stranger will intervene during an act of abuse such as that conducted by Joseph. Now, this point does not consider the rightness or wrongness of intervening in such cases, but only how the victim interprets this lack of interference as signalling either the active agreement or inactive endorsement of the views espoused by Joseph. Conversely, we could interpret certain other actions of the fellow passengers as a rejection of the views expressed by Joseph. The filming of the exchange on a mobile phone, for example, could be interpreted either as a case of the recorder filming for their own entertainment, or as the filming of evidence to be used either to publicly shame the attacker online or to be passed on to the relevant authorities. In this case, it was the latter, and the evidence was used to prosecute Joseph. At the time of the attack, however, it would most likely have been difficult for the victim to determine whether or not this filming was carried out with good intentions.

Rejecting authority claims made during instances of hate speech

Apart from rejecting the views of Joseph as being representative of wider societal attitudes towards Muslim immigrants, the victim can also question the suitability of the speaker to even grant recognition in the first place. From the perspective of positive identity-formation through intersubjective recognition, then, we see problems emerging where the reliance on the social approval of another automatically places authority upon that other to either impart or withhold adequate recognition of our equal moral status. Without questioning the power imbalances at play in the pursuit of recognition, we cannot determine whether or not seeking recognition from some particular actor is a legitimate aim (McBride, 2013, p. 65). If we seek approval from another individual, we are already recognizing their authority to make decisions regarding our recognitive status for us. Along such lines, Fanon notes how the master-slave dialectic common to the social imbalances present in struggles over recognitive status leave oppressed individuals in a perpetual position of subordination, where those seeking approval remain forever at the mercy of their master in the granting of their equal moral status. As he writes:

Concern with the elimination of a vicious circle has been the only guide-line for my efforts. There is a fact: White men consider themselves superior to black men. There is another fact: Black men want to prove to white men, at all costs, the richness of their thought, the equal value of their intellect. How do we extricate ourselves? (Fanon, 2008, p. 3)

In Fanon's example, victims of colonialism are trapped in a continually dominating pursuit of recognition from their colonizers. Attempts to fit in with the culture and norms of the white man will never be enough for those in power, and so victims are forever grasping for the kind of recognition they may never achieve. It is only, then, through the correction of the dominating imbalances of power that such individuals can hope to free themselves from the constant approval-seeking present within a system of colonialism. Thus, one way in which the victim might reject the authority of Joseph in attempting to harm her recognitive status is by questioning the authority of Joseph in making such normative claims about her.

This becomes more problematic, however, if she comes to hold the belief that the vast majority of the surrounding population share in these derogatory views. It is important, then, to assess the power imbalances at play when recognition claims are either withheld or granted if we are to more fully understand the moral nature of the claims themselves. One major way in which the victim can reject the authority of the speaker is by balancing the views of Joseph with her own understanding of

the legal protections against such discriminatory abuse within British society. In terms of her own idea of her social standing as a citizen of the United Kingdom, the victim is aware of the laws in place which afford equal civil and human rights to all members of the population, regardless of their ethnicity, country of origin, race, gender, sexuality, religious views, and so on. The victim, then, when forming a belief concerning her place in society, can look to these laws to strengthen her idea that she is of equal moral worth in comparison to the rest of the population.

Beyond the basic universal equality afforded to everyone, the victim can also point to those laws aimed at the protection from religious and race-based discrimination and abuse, measures which again send the message to protected individuals that their identity status is a legally protected characteristic, and that any betrayal of these principles of basic equal respect will be threatened with legal action. Counter-claims to overt acts of misrecognition, then, can be used to highlight the problems with attributing relevant authority to hate-speakers when we seek satisfaction of our recognitive claims.

Conclusion

In conclusion, we find from this analysis the need to unpack the various background conditions and normative rules in place when an individual is subject to an act of hate speech. By understanding more clearly the influence of social context, speaker authority and imbalances of power present in an explicit act of misrecognition, we can then use this information to determine the sources of harm within such acts. This is required if we are to best tackle the sources and ill-effects of hate speech through the construction and implementation of relevant policy measures. Contrary to the critical race/feminist theorist speech-act typology, then, the normative ordering experienced during an act of hate speech is not a foregone conclusion.

Accepting this does not place the burden of responsibility on the victim to ‘fend off’ such attacks, but simply allows policymakers to ‘cut off’ hate at its source, perhaps through the mobilization of measures aimed at responding or ‘speaking back’ to those who attempt to degrade others through the use of hateful speech.

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