

Diversifying Syllabi 2015 Text Summary and Teaching Tips

SECTION ONE:

Article Title: Silencing Speech
Author: Ishani Maitra

Readability: Moderate-to-Hard: clearly written, but uses many subtle distinctions and jargon. (Might also want to include warning concerning the content of the article, viz., sexual assault.)

Thesis: In this paper Maitra offers a way of making sense of the idea that pornography ‘silences’ women that is coherent and morally important. She develops a general account of silencing that aims to make clear why a speaker who is silenced is thereby unfairly deprived of (some of) the benefits unique to speech. This makes her account superior to competing accounts—like Langton and Hornsby’s. To do so she develops a Gricean—rather than Austinean—account of silencing as *communicative disablement*—rather than *illocutionary disablement*.

Key Definitions:

Illocutionary Acts (from Austin): “Illocutionary acts are ones that a speaker performs merely in virtue of uttering the right words in the right contexts. In such contexts, the utterance simply constitutes the act in question” (312). Examples include: warning, marrying, betting, christening, promising, urging, telling, protesting, refusing, etc.

Perlocutionary Acts (also from Austin): “Perlocutionary acts are ones that bring about certain effects, such as the effect of getting someone to believe something, or getting them to perform an action. Unlike illocutionary acts, perlocutionary ones are not simply constituted by the utterances used to perform the act” (312).

Uptake: the uptake of a particular illocutionary act is secured if and only if its intended audience recognize it for the act it is (intended to be). Maitra suggests that “uptake requires both understanding of the content expressed by the utterance, and recognition of the speaker’s illocutionary intention(s), that is, recognition of her intention to perform a given illocutionary act (or acts)” (313n7).

Communicative act: an act “that is successful if the speaker’s intention to perform the act is recognized by her intended audience” (321).

Informative intention: A speaker’s intention to inform her audience of some particular content.

Communicative intention: A speaker’s intention for her audience to recognize her informative intention.

Brief Summary:

Article map:

- **I. Introduction:** spells out her thesis regarding silencing.

- **II. The Silencing Argument:** summarizes the argument (from Hornsby and Langton) that pornography silences women, and that this is an infringement on their right to free speech. Gives an initial characterization of silencing as *illocutionary disablement*.
- **III. Illocutionary vs. Perlocutionary:** Criticizes the above account for relying on an untenable distinction between illocutionary and perlocutionary acts.
- **IV. Illocution and Free Speech:** criticizes the argument for having too broad of a conception of the right to free speech (illocutionary enablement).
- **V. Communicative acts:** makes a distinction within the set of illocutionary acts, outlining the category of *communicative acts*, and suggests the free speech right is concerned with these, rather than all illocutionary acts.
- **VI. Silencing Reconceived:** Outlines the main aspect of Grice's theory of speaker's meaning and employs a Gricean framework to characterize silencing as *communicative disablement*.
- **VII. Silencing and Sexual Desire:** shows how her account of silencing as communicative disablement can be used to helpfully understand a woman's being silenced when she aims to refuse sex.
- **VIII. Silencing as a Moral Wrong:** shows how on her account generalizes to other scenarios beyond the above and how all instances of silencing share a distinctively speech-related moral wrong (though some, like the above, have other—graver—wrong-making features).
- **IX. Conclusion:** describes the advantages her view as over Langton and Hornsby's.

Introduction:

“On my view, the truth of [the silencing] claim does not require that women be prevented from uttering words. Rather, I develop an account of silencing that, unlike the competing account, can help make clear why a speaker who is silenced is thereby unfairly deprived of (some of) the benefits that lead us to place a special value on speech in the first place. Moreover, on my account, silencing turns out to be a *distinctively* speech-related wrong, in the sense that a silenced speaker is deprived of benefits that speech, and only speech, can provide” (310).

“Though the current philosophical interest in silencing arises in the context of discussions of pornography and its harms, it is not my aim to establish that pornography in particular silences. For all I say here, sources other than pornography (e.g., racist hate speech) may silence as well. Moreover, while other discussions of silencing have concentrated on the silencing of women in particular, my view makes room for the possibility that other sorts of speakers can also be silenced. My aim here is to offer a general account of the phenomenon that makes clear what it is for a speaker to be silenced, and further, that lays bare the empirical commitments of claims about silencing, thus enabling us to see what evidence bears on their truth” (310).

II. The Silencing Argument:

Begins by summarizing Langton and Hornsby's argument. As Maitra sees it, they are committed to two distinct theses.

First, the "**Silencing Thesis**: Pornography systematically silences women" (311). And,

Second: the "**Free Speech Thesis**: Speakers who are systematically silenced thereby suffer an infringement of their right to free speech" (311).

This means that women (because they are silenced by pornography) have their right to free speech infringed upon. And since pornography is often defended on free-speech grounds, this reveals a conflict within the speech right itself, meaning that the rights of 'pornographers' and the rights of woman need to be balanced against each other. Maitra calls the combination of these two theses and the resulting conclusion about a tension within the right to free speech itself the "Silencing Argument."

The conception of silencing Langton and Hornsby use to make the silencing argument builds off J.L. Austin's theory of speech acts. For Austin, as Maitra makes clear, "speech is action: words are used to *do* things, to perform acts" (312). This leads to an initial characterization of what silencing consists in:

"But if speech is action, if speaking is doing things with one's words, then perhaps silence can consist in being unable to do some of what one wants to do with one's words." (312)

To illustrate, Maitra describes (and frequently returns to) the following scenario of silencing:

Scenario 1: A woman says 'No' to a man, intending to refuse sex. The man understands the conventional meaning of her utterance, and recognizes the content it expresses. Nevertheless, the utterance does not do what she wants it to do: it does not deter him from forcing sex on her." (313)

To explain this scenario and to further clarify the argument Langton and Hornsby make, Maitra brings in the Austinean distinction between **illocutionary acts** and **perlocutionary acts**. That is, silencing consists not simply in 'perlocutionary failure'—the failure for one's words to have the effect she wants.

Rather, silencing, for Langton and Hornsby, occurs at the level of illocutionary acts. Specifically, Langton and Hornsby suggest that 'silencing' be thought of as "**illocutionary disablement**" (315). That is, the inability to successfully perform one's intended illocutionary act. For Langton and Hornsby, then, pornography causes the illocutionary disablement of women—this is the Silencing Thesis.

The Silencing Argument takes this silencing to be an infringement on women's right to free speech. Langton and Hornsby argue so much based on an account of what this right—to free speech—consists in.

They suggest that we value freedom of speech "partly because we want to make it possible for voices unattractive to the majority, or to the powerful, to get a hearing" (315). We value the

possibility of the minority/powerless to “protest, criticize, and (verbally) resist the decisions, actions, and views of the majority and the powerful” (315).

Since these acts are all illocutionary acts, if some are unable to perform these acts because they suffer systematic illocutionary disablement, then they don’t “derive from their speech (some of) the benefits that made speech valuable to us in the first place,” and so have their right infringed upon (316).

III. Illocutionary vs. Perlocutionary

It’s crucial for Langton and Hornsby’s argument that silencing consist in illocutionary—and not perlocutionary—disablement. Yet, as Maitra points out, the distinction between illocutionary and perlocutionary acts “is notoriously difficult to clarify” (317).

Austin suggested the ‘by’ and ‘in’ difference, but it’s plausible this can only take us so far. Focusing on the relevance of uptake is perhaps a more promising path, but perlocutionary acts also seem to (sometimes) require uptake to be fully successful—such as persuasion, perhaps. Maitra suggests, then, that we ought not to rest the case of the Silencing Argument on securing the illocutionary/perlocutionary distinction. Before offering an account free from this burden, however, Maitra singles out one more criticism of Langton and Hornsby’s approach.

IV. Illocution and Free Speech

Langton and Hornsby’s focus on illocutionary disablement as an infringement on free speech suggests that the needed remedy is clear—namely, illocutionary enablement. Women *should* be able to refuse sex. The powerless *should* be able to protest and criticize the powerful. Yet, other writers—notably Daniel Jacobson—have pointed out that *some* cases of illocutionary disablement are not so clearly morally wrong. Arguably, no harm is done when we prevent twelve-year-olds from marrying—marrying being a paradigmatic illocutionary act. Illocutionary disablement in this case—and so, silencing on Langton and Hornsby’s account—is not necessarily an infringement on the right to free speech, then. This suggests that the Free Speech Thesis is false—at least when it is understood in this broad way. That is, the right to free speech “simply doesn’t extend to all illocutionary acts” (319).

What’s needed, then, is a satisfying way to distinguish illocutionary acts that ought to be protected in the right to free speech (including plausibly the ability to refuse sex), from other illocutionary acts (such as the marrying of minors).

V Communicative Acts

To begin, Maitra notes one plausible (but still unsatisfying) way of drawing the illocutionary/perlocutionary distinction suggested by Hornsby. Whereas illocutionary acts—like warning—typically require only the audience recognize the speaker’s intention in order to be fully successful, perlocutionary acts—like persuasion—seem to require this recognition, and also something more. That is, a speaker (A) successfully warns her audience (B) so long as B recognizes A’s intention to warn. However, for A to successfully persuade B, mere recognition of A’s intention is never enough.

Hornsby thinks this is because illocutionary acts are merely acts of communication—or, communicative acts—while perlocutionary acts also include something more. A **communicative act**, on Hornsby’s view, “is one that is successful if the speaker’s intention to perform the act is recognized by her intended audience” (321). From this Hornsby claims that “the illocutionary features of an act are the ones that constitute it as a communicative act” (322).” Yet, as Maitra points out, the trouble with this idea “is that it mistakenly identifies what is in fact a sub-class of illocutionary acts—namely, the communicative acts—with the entire class” (322). Some illocutionary acts, like their perlocutionary cousins, require more than mere recognition of the speaker’s intention. Marrying, for example, requires a whole host of other contextual and conventional features, such as the speaker not being already married, and (at the time of Maitra’s writing but thankfully no more) the marrying couple be opposite-sex.

However, refusal is not like marriage in this way. “All that is needed for a successful performance of refusal is that the audience recognize the speaker’s intention to refuse. This makes refusal, like warning, a communicative act” (322). And, as Maitra explains, the same holds for many of the other illocutionary acts “that are of particular interest to the Silencing Argument, such as criticizing, protesting, and so on: all of these also belong in the category of communicative acts” (322).

“To rescue the Free Speech Thesis from Jacobson’s criticisms, silencing should be understood not as *illocutionary* disablement, but rather as *communicative* disablement, or disablement of communicative acts” (323). That is, Maitra wants to suggest that the right to free speech is only committed to protecting communicative acts, not all illocutionary acts.

VI Silencing Reconceived

To develop her account of silencing as communicative disablement, Maitra employs a Gricean—rather than Austinean—framework.

As an entry point into Grice’s theory, consider the following (silly) example.

Suppose that I want to convey to Mr. X that Mr. Y has been displaying ‘undue familiarity’ towards Mrs. X. I might try to do this by pursuing either of the following strategies:

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

Strategy 2: I sketch a picture of Mr. Y and Mrs. X in such a situation, and show that to Mr. X. (324)

In *Strategy 1*, I attempt to convey evidence about Mr. Y’s behavior by providing ‘direct evidence’ of that behavior. My *informative intention*, that is, my intention to inform my audience of a particular content, is fulfilled if the audience understands that content—i.e., that Mr. Y is acting in an ‘unduly’ way in the photograph.

But it is not always necessary to provide such ‘direct evidence’ in order to communicate this content. As Maitra suggests, “Grice’s central insight was that to satisfy such an informative

intention, it generally suffices for the speaker to provide evidence, not merely of what she intends to convey, but of her intention to convey this” (325). This is what happens in *Strategy 2*, I provide evidence of my informative intention—rather than evidence of what I mean to convey. This is my communicative intention, namely, my intention for my audience to recognize my intention to inform her of this content.

As Maitra explains: “This Gricean account of speaker’s meaning is summarized in the following set of necessary and sufficient conditions:

- A speaker S means something by uttering x iff, for some audience A, S utters x intending:
- (i) A to produce a response r;
 - (ii) A to think (recognize) that S intends (i); and,
 - (iii) A’s fulfillment of (ii) to give him a reason to fulfill (i).

“Intention (i) is what I have called the speaker’s ‘informative intention.’ Intention (ii) I label her ‘communicative intention.’ Intention (iii) should be understood as requiring that the fulfillment of the speaker’s communicative intention give her audience some reason, though typically not a sufficient one, for fulfilling the speaker’s informative intention.” (325-326).

And so, recognizing the speaker’s **communicative intention** gives the audience reason to understand her **informative intention**.

For the purpose of her account of silencing, Maitra wants to understand refusal “as an instance of a speaker’s meaning something by her words” (326). And this involves understanding what the “characteristic response” a speaker intends to produce in refusing—that is, what intention (i) might be in cases of refusals.

Maitra plausibly suggests that “in refusing, a speaker typically intends to produce in her audience the belief that she does not want what is being offered, all things considered” (326).

Applying this to *Scenario 1*, then, “yields that, in order to count as refusing, the speaker there must have a triad of intentions: she must intend that,

- (i) her audience come to believe that (all things considered) she does not want to have sex with him;
- (ii) her audience come to think (recognize) that she has the informative intention mentioned in (i); and,
- (iii) her audience’s fulfillment of (ii) give him a reason to fulfill (i). (326)

Noting that, intuitively, a speaker can *communicate* a refusal even if her audience doesn’t satisfy her ‘informational intention’—this is the point of the coffee example—Maitra suggests that “satisfaction of the first intention, i.e., the informative intention, is not necessary for successful communication.” Yet, she claims that “**satisfaction of the other two intentions is both necessary and sufficient for full success of a communicative act**” (327).

It might be worried that this makes the success of a communicative act too tenuous. However, in response, very little, in Maitra’s view, is required for a communicative act to be successful:

“A speaker’s communicative act can succeed even if she isn’t believed, even if she is judged a liar, as [in the coffee example]. Communicative success does not require that the audience respect what the speaker is trying to say, nor that he be sympathetic towards the speaker. We regularly recognize others’ communicative intentions even when we have neither respect nor sympathy for them. To this extent, communicative success comes cheaply.” (327)

This paves the way for Maitra’s account of silencing that doesn’t rely on any notion of illocutionary act. On her view, “a speaker is **communicatively disabled** iff she is unable to fully successfully perform her intended communicative act, because her intended audience fails to satisfy either the second or the third of her (Gricean) intentions” (327-328).

And so, silencing, on this view, consists in the inability to satisfy her **communicative intention**, that is, her intention to get her intended audience to recognize her informative intention.

VII Silencing and Sexual Desire

Maitra discusses two possible ways in which *Scenario 1* can be understood in terms of her account of silencing. This can occur either because (a) her audience fails to recognize she has an informative intention at all; or (b) her audience recognizes that she has some informative intention or other, “but mistakes the content of her informative intention” (329). Maitra offers interpretations of each possibility, each related to beliefs about women as sexual objects that might be inferred from pornography. Moreover, she notes that the Gricean framework is, in this way, open to a wider range of interpretations of the Silencing Thesis than the Austinean one employed by Langton and Hornsby.

VIII Silencing as a Moral Wrong

While Maitra earlier pointed out how not every instance of illocutionary disablement is necessarily a moral wrong (preventing twelve-year-olds from marrying), here she shows how her account of silencing as communicative disablement makes better sense of the “moral wrong that is common to all instances of silencing” (331).

The crux of the idea is that silencing—as communicative disablement—means that some speakers are unfairly deprived of the benefits of speech.

Furthermore, this deprivation cannot be justified by appealing to the usual strategies of justifying the deprivation of benefits. The four strategies Maitra discusses here include: (1) the deprivation is necessary to achieve some larger goal (like taxes!), (2) the deprivation is justified because securing the benefits is too costly (like grass!), (3) the deprivation is justified because the person deprived is not entitled to the benefits (like thieves!), or (4) the deprivation is justified because the deprived have consented. None work in the case of communicative disablement.

Maitra adds that the benefits of speech that communicative disablement deprives speakers of are ones that *only* speech can provide (332). This marks silencing as a *distinctively speech-related wrong* (333).

Conclusion:

Maitra concludes by summarizing the benefits her account has over the main rival. These are, namely, (1) it generalizes to other instances where speakers are plausibly silenced; (2) it doesn't result in the counter-intuitive conclusion that preventing minors from marrying is an infringement on free speech; (3) it doesn't rely on such a contentious distinction as that between the illocutionary/perlocutionary; (4) it allows us to better see the *different* ways a speaker can be silenced; and (5) it identifies the distinctively speech-related wrong that is common to all instances of silencing, unlike Langton and Hornsby's account.

Notes:

SECTION TWO: to be completed by note taker during discussion

Possible Applications:

- Not a good stand-alone piece, as it is engaged in a complex debate
- Would fit nicely in a course/section on Language and Power, to be read after Austin, Langton, and Grice (see below)
- It is a good way to show how Austin and Grice's theories can be applied
- A good model of philosophical disagreement
- Good companion piece to Langton (see below) to discuss the debate on silencing; a way to discuss pragmatics
- Could work in a unit on free speech, along with JS Mill (though Langton's piece might be more accessible there)
- This would be a good capstone piece on a unit about phil of language

Complementary Texts/Resources:

J.L. Austin. 1955. *How to Do Things with Words*. Cambridge: Harvard University Press.

H.P. Grice. 1989. "Meaning." In *Studies in the Way of Words*. Cambridge: Harvard University Press.

Daniel Jacobson. 1995. "Freedom of Speech Acts? A Response to Langton." *Philosophy and Public Affairs* 24: 64-79.

Rae Langton. 1993. "Speech Acts and Unspeakable Acts." *Philosophy and Public Affairs* 22: 193-330.

Ishani Maitra. 2013. "Subordinating Speech." In *Speech and Harm*, edited by Ishani Maitra and Mary Kate McGowan. New York: Oxford University Press.

Possible Class Activities:

- Brainstorming examples about different ways to silence others
 - Start with the dinner party example, maybe link to dorm life?

What traditional texts might this text replace?

- Grice (see above)