1. Introduction

Catherine MacKinnon (1987, *Feminism Unmodified*, p.176) claims that pornography depicts women
dehumanized as sexual objects, things or commodities; enjoying pain or humiliation or rape;
being tied up, cut up, mutilated, bruised, or physically hurt; in postures of sexual submission
or servility or display; reduced to body parts, penetrated by objects or animals, or presented in
scenarios of degradation, injury, torture; shown as filthy or inferior; bleeding, bruised or hurt
in a context which makes these conditions sexual.

She argued that pornography is the subordination of women. If that is right, then one would have a
good case for appropriate anti-pornography legislation.

US courts concluded that anti-pornography legislation would be unconstitutional.¹ They
accepted that pornography might *depict* and *cause* subordination, but concluded that this just shows
that pornography counts as a type of *speech* – in a technical, legal sense in which *speech* is an
expression of an idea or message in a context in which that idea or message is likely to be understood.
If this is right, then pornography is covered by the First Amendment, which protects the freedom of
speech.

show how one can tie these views together: roughly, pornography is a speech act, and it is an act of
subordinating women. In particular, Langton suggests that pornography *silences* women.

If this is right, then there are important consequences. First, it would difficult for the opponent
of subordination to defend pornography. Second, there would be grounds to object to pornography on
the basis of equality (since pornography would be the subordination of women). Third, there would be
grounds to object to pornography on the basis of the freedom of speech (since pornography would
silence women).

2. Pornography as a subordinating speech act

Let us consider the view developed by Langton. Building on the court’s classification of pornography
as speech, Langton views pornography through the lens of Austin’s speech act theory.

Recall the following key components of Austin’s speech act theory. Each utterance is a
combination of *three acts*: a *locutionary act* is the uttering of something with a content; an
*illocutionary act* is the *doing* of something in performing the utterance; and a *perlocutionary act* is the
doing of something as a (possibly intentional) *side-effect* of performing the utterance. Importantly,
illocutionary acts are associated with conventional *constitutive rules*: those rules must be abided by
for an utterance to count as a performance of the illocutionary act in question.

Accepting MacKinnon’s characterisation of pornography, it is reasonably clear that
pornography involves the locutionary act of depicting the subordination of women. (That is, the

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¹ See Langton 1993 for references.
subordination of women is at least one part of the content of pornography.) Moreover, it is highly plausible that pornography might involve the perlocutionary act of causing the subordination of women. (That is, the subordination of women might well be one side-effect of pornography.) The key question, however, is whether pornography involves the *illocutionary act of subordinating women*.

2.1 An illocutionary act of subordination

Some utterances *can* involve the illocutionary act of subordinating. Langton gives us the example of an assertion of “blacks are not permitted to vote” by a legislator during the apartheid. Such an assertion may have subordinated black people by:

- *ranking* (unfairly) black people as inferior to white people.
- *legitimating* discriminatory behaviour of white people towards black people.
- *depriving* (unjustly) black people of the power to vote.

One key constitutive rule here is that the utterer must have *authority* in the relevant domain – which, plausibly, a legislator may have had.

Langton suggests that parallel comments apply with respect to pornography. First, pornographers may have authority in the ‘sexual domain’, as pornography may inform boys’ and men’s beliefs about what is permissible in the sexual domain. Moreover, Langton claims that:

- pornography *ranks* (unfairly) women as sexual objects.
- pornography *legitimates* (celebrates, promotes, etc.) sexual violence against women.
- pornography *deprives* (unjustly) women of power – e.g. to refuse sex.

If this is right, then pornography may be said to be an illocutionary act of subordination.

Langton gives three arguments (none of which are intended to be *decisive*) for the claim that pornography involves an illocutionary act of subordinating women.

(a) Studies suggest that some men/boys may find certain aspects of the subordination of women sexually attractive. These studies might be explained by the claim that pornography involves the illocutionary act of subordinating women.

(b) Some audiences (such as feminists) *take* pornography to be subordinating.

(c) A key constitutive rule for the illocutionary act is satisfied, supposing that boys and men *do* (perhaps implicitly) take pornographers to have authority about what is permissible in the sexual domain.

2.2 An illocutionary act of silencing

Why should we think that pornography deprives women of power?

Note first that (according to Austin and Langton), it is a constitutive rule for many illocutionary acts that there is *audience uptake*: the audience must *recognise* that the act has been performed. For example: an actor may struggle to *warn* the audience of a fire, if the audience believes the actor to be acting; a black person in apartheid was unable to vote (in part) because, even had s/he put a slip in the ballot box, the authorities would not recognise him/her as having voted. And in particular, an utterance of “*no*” might only count as a refusal if the audience takes the utterer to have refused.

Langton argues that pornography has an effect on the *audience uptake* of women’s utterances in certain contexts. In particular, by legitimating sexual violence and rape, pornography may legitimate a boy/man *not taking an utterance of “no” as a refusal*. In this case, one aspect of the illocutionary act of subordination may be the prevention of women of being able to refuse sex.\(^2\) In this sense, pornography may *silence* women.

\(^2\) I do not think that we should understand an inability to refuse sex as entailing consent.
3. **The role of context in speech acts**

Jennifer Saul (2006, *Pornography, Speech Acts and Context*) raises an important objection to Langton’s treatment of the issue. First, Saul argues that pornography cannot in itself be a speech act. The problem is that speech acts are performed by utterances *in contexts*, whereas a work of pornography (such as a video/film, picture, text, etc.) is not appropriately understood as *in context*.

To illustrate. Note that “I do” could be used in acts of marrying, agreeing (“do you agree to return these books next week?”), admitting (“do you admit to killing the deceased?”), etc. Saul asks us to imagine Ethel, who has created a sign with “I do” written on it.

Imagine that Ethel has a very eventful week, during which she uses the sign to get married, to agree to return her books on time, and to confess to murder. Now consider the question, ‘What is the illocutionary force of Ethel’s sign?’ The answer is that it makes no sense to suppose that the sign itself has any particular illocutionary force. […] Which act will be performed with the sign varies with context. (pp.235–236)

The point is that the sign cannot *itself* be a speech act – it is an ‘utterance’ that involves the sign *in an appropriate context* that counts as a speech act. Likewise, a work of pornography *itself* cannot be a speech act – it is an ‘utterance’ that involves that work of pornography *in an appropriate context* that counts as a speech act.

There is an obvious way to respond to this objection: it may not be a work of pornography *per se* that is a speech act, but a particular *viewing* of that work of pornography. Saul argues, however, that Langton’s arguments above no longer apply: while a particular viewing of a work of pornography might be a speech act, Langton’s arguments fail to establish that pornography viewings subordinate women.

First, note that it is implausible that *all* viewings of pornography are subordinations of women. (For example, sometimes feminists may view a work of pornography as part of anti-pornography talks.) But perhaps Langton could maintain that *most* viewings of pornography are subordinations of women?

Saul argues not. Recall Langton’s three arguments, (a)–(c) above. With respect to these arguments, Saul argues as follows:

(a) It is probably not the case that *most* viewings of pornography lead to the subordination of women. So, for most viewings, we don’t have the key explanatory benefit that justifies the claim that that viewing is an illocutionary act of subordinating women.

(b) Audiences of most viewings of works of pornography will not take that viewing to be an act of subordinating women. [And, those that *do* will not be those that satisfy (a) – i.e. those that take a viewing to be a subordination of women will generally *not* be those that are subsequently led to subordinate women.]

(c) The audiences of most viewings probably *don’t* take the pornographers to be authoritative of what is permissible in the sexual domain. (Although this is ultimately an empirical question.)

Thus, Saul concludes, Langton’s arguments would fail to show that *most* viewings of works of pornography would be subordinations of women – at best, Langton could argue that *some* viewings of works of pornography would be subordinations of women. But that is presumably not the powerful conclusion that Langton would like.