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Testimonial Injustice, Pornography, and Silencing (forthcoming in Analytic Philosophy)

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1. Introduction

According to Miranda Fricker (2007), a testimonial injustice occurs when someone is not given the credibility they deserve when testifying, due to prejudices about their identity held by their audience. In this paper, I will develop two criticisms of Fricker's defence of an interpretation of Catharine MacKinnon's (1994: 9) claim that pornography silences women that conceives of the silencing in question as an extreme form of testimonial injustice.

The intended contrast is with the speech act theoretical model of how pornography silences women, familiar from the work of Rae Langton and Jennifer Hornsby (e.g. Langton 1993 and Hornsby 1993, Langton and Hornsby 1998). On that model, pornography can set the rules for sexual language games between its consumers and women such that a woman can try to refuse sex and yet fail to be fully successful because she fails to secure 'uptake' (Langton) or 'reciprocity' (Hornsby). These conditions on successful communication require that one's audience not only recognizes the content of what one is saying, but also what one *is doing* in saying it: in J. L. Austin's (1975) terminology, the *illocutionary* act one intends to perform. On this speech-act theoretic account of silencing, a woman manages to say 'no': she performs an apt locutionary act, in Austin's terminology. However, she fails to fully successfully perform the illocutionary act she intends to in making her utterance, namely refusing, since her utterance is not recognized as a refusal by her audience. Langton and

Hornsby have appealed to this interpretation of MacKinnon's claim that pornography silences women in order to argue against the standard liberal line on pornography, which takes a permissive stance to be demanded by a right to freedom of speech. This is *the silencing argument* against the status of pornography as protected speech.¹

Fricker instead wants us to focus on MacKinnon's repeated suggestion that pornography strips women of their *credibility* as speakers (Fricker 2007: 139). Fricker's proposal is that rather than being subject to the kind of 'illocutionary disablement' Langton and Hornsby describe, women are the victims of 'an especially acute form of testimonial injustice'. This testimonial injustice is due to the kind of dehumanizing bad sexual ideology peddled in (but not only in) much pornography. Contra Hornsby and Langton, Fricker holds that in the cases in question the woman successfully performs the illocutionary act that she intends to. But she might as well not have, since she is given so little credibility by her audience that her utterance 'is not heard as genuine testimony at all' (2007: 139):

[T]he dehumanizing sexual ideology is such that the man never really *hears* the women at all—her utterance simply fails to register with his testimonial sensibility. (2007: 140, emphasis in original)

¹ This is a sketch of the silencing argument; for a more detailed discussion, see McGlynn 2016: 332-3. As in that earlier paper, I'll mostly focus on Langton's version of the argument here.

Here I will criticise Fricker's epistemic understanding of the claim that pornography silences women, at least insofar as she intends it to be a rival to the more familiar speech act theoretic account. Having laid out Fricker's account in more detail (section 2), I will question the reason Fricker offers for favouring it over the speech act account, namely that it 'describes the more empirically likely possibility'. I cast doubt on both the truth (section 3) and the significance (section 4) of this claim. Finally, I raise a distinct concern about theorizing about sexual refusal as a kind of testimony, as Fricker's account would seem to have us do (section 5).

2. Silencing as Testimonial Injustice

We first need to investigate Fricker's notion of a testimonial sensibility, to better understand her account of how pornography silences women before considering whether it is plausible. A testimonial sensibility is 'a form of rational sensitivity that is socially inculcated and trained by countless experiences of testimonial exchange, individual and collective', and the sensitivity in question involves perceiving people 'in an epistemically charged way' (2007: 5): that is, as more or less creditable on the topic about which they are testifying. Fricker expands on this in chapter 3 of her book, developing an account of testimonial sensibility according to which it is a 'capacity for a certain sort of social perception' (2007: 71), namely a perception of someone as more or less credible on the topic at hand, in the circumstances at hand. This perception involves a 'judgment' about

credibility that is non-inferential, uncodifiable², intrinsically motivating and reason-giving, and which usually has an emotion component. Here Fricker draws an extended parallel with moral perception, as understood within the virtue theoretic tradition; just as the virtuous moral agent sees the world in moral colour, the virtuous epistemic subject sees the world, and in particular the people in it, in 'epistemic colour' (2007: 71).

This analogy indicates how we are to interpret Fricker's claim about silencing. She is not merely claiming that pornography erodes the credibility of women in men's eyes so thoroughly that men see women as lacking in credibility when refusing sex. It is that sometimes women simply do not register with a man's testimonial sensibility *at all*. Fricker is quite explicit about this:

What is not forthcoming is any genuine credibility judgement in respect of the speaker's utterance, for the dehumanizing sexual ideology is such that the man never really *hears* the woman at all—her utterance simply fails to register with his testimonial sensibility. This is one construal of the silencing that concerns MacKinnon: an extreme kind of testimonial injustice, characterized by a radical communication dysfunction. (Fricker 2007: 140, emphasis in original)

² As Fricker explains, 'the virtuous subject does not arrive at her perceptual judgement by way of obedience to any codification of the endlessly complex norms implicit in her judgment' (2007: 73).

Fricker does not elaborate on what it means for a speaker's utterance to fail to register on their audience's testimonial sensibility, but we can get a grip on this by exploiting the parallel she draws with moral sensibility. Examples that could be plausibly construed as parallel failures of an agent's moral sensibility are, sadly, all too familiar. Consider, for instance, Charles Mills's discussion of the effects of a conceptual scheme which employs the dehumanizing concept of a "savage":

When Thomas Jefferson excoriates the "merciless Indian Savages" in the Declaration of Independence, then, neither he nor his readers will experience any cognitive dissonance with the earlier claims about the equality of all "men," since savages are not "men" in the full sense. Locked in different temporality, incapable of self-regulation by morality and law, they are humanoid but not human. (Mills 2007: 27)

Mills goes on to argue that such flawed concepts partially determine how one who employs them actually perceives the world; 'it is not a matter of seeing the phenomenon with the concept discretely attached but rather of seeing things *through* the concept itself'. In the terms Fricker suggests, we might say that those in the grip of a sufficiently dehumanizing white supremacist ideology and conception scheme do not see non-white people in 'moral colour'.³ Similarly, Lynne Tirrell has detailed the way that dehumanizing language set the

³ The terminology of 'non-white' is generally problematic since, as Reni Eddo-Lodge notes, it 'brings with it a suggestion of something lacking, and of a deficiency' (2017: xvi). However, in this context that is precisely the point; it is a problematic notion introduced by the Racial Contract as described and criticised in Mills 1997, and I use it here in that spirit.

scene for the moral atrocities committed against the Tutsi during the 1994 genocide in Rwanda, first 'getting them to talk amongst themselves as if these neighbors were not people at all' (2012:175), thereby placing them 'beyond the universe of moral obligation' (Bromley, quoted in Tirrell 2012: 197). From a virtue theoretic point of view, a natural interpretation of Tirrell's example is that one effect of successfully establishing such a linguistic practice of dehumanization was to bring it about that the Tutsi no longer registered with the moral sensibilities of the dominant Hutu: that they were not seen as making the usual moral demands made by humans on each other.

As noted above, seeing the world and the people who inhabit it in moral colour involves perceptual judgment which is intrinsically motivating and reason-giving; seeing people suffering or being massacred should motivate me and give me reason to respond in certain ways. By the same lights, seeing a person in epistemic colour involves seeing them as more or less credible, where this involves a perceptual judgment which motivates me and gives me reason to respond doxastically in certain ways: believing what they say, forming a particular degree of credence or suspending judgment, and so on. When what someone says fails to register with their audience's testimonial sensibility, their audience makes no judgment about the speaker's credibility at all, not even an unfavourable one.⁴ In such cases, the motivational and reason-giving force of such credibility judgments is simply absent. The speaker might as well not have uttered anything; in this sense she has been silenced.

⁴ Recall the passage from Fricker, quoted above: '[w]hat is not forthcoming is any genuine credibility judgement in respect of the speaker's utterance' (2007: 140).

3. Silencing and Dehumanization

So far there's nothing in Fricker's proposal that a proponent of Langton or Hornsby's speech act theoretic account of silencing needs to take issue with. Indeed, we might think that Fricker's epistemic account will be complimentary rather than a competitor—this is a possibility I'll discuss below. However, Fricker presents her view as a rival account of the way that pornography silences women, and she offers a reason for favouring it. Fricker acknowledges that both her notion of silencing and the speech act theoretic one are coherent possibilities, but she claims that 'the epistemic model describes the more empirically likely possibility, simply because it requires less erosion of women's human status before the silencing effect kicks in' (2007: 141-2). Fricker does not expand on this point, and I think we should be sceptical. Questioning this point will leave us without a reason to prefer Fricker's epistemic account of how pornography silences women over more familiar accounts. In the following section, I'll offer further grounds for questioning Fricker's proffered reason to favour her account, arguing that issues about empirical likelihood aren't really to the point here; rather, we want an account of how pornography silences women that is suited to playing a particular theoretical role in the silencing argument against pornography's protected status, as it was introduced above. But let us first turn to the task at hand in this section, and consider whether Fricker's claim that her account offers 'the more empirically possibility' is correct.

Offering a principled evaluation of Fricker's claim is somewhat tricky, unfortunately. First, it is not clear in what sense Langton's speech act theoretic model really does require an

'erosion of woman's human status before the silencing effect kicks in'. Consider one of Langton's less charged examples, borrowed from Donald Davidson; an actor on stage wishes to warn the play's audience of a fire, but is unable to do so by shouting 'Fire!' because the audience misconstrue this as part of the performance (Langton 1993: 49-50). In this example, as Langton presents it, the silencing effect is due to the actor's role and the conventions of the institution that role is part of, not through any 'erosion' of his status as human. Moreover, Langton explicitly likens the way in which women are silenced when refusing sex to this example:

She is in the position of the actor in Davidson's story, silenced as surely as the actor is silenced. (1993: 54)

In both examples, Langton suggests, there's something about the 'role' that the speaker occupies that makes certain illocutionary acts—warning and refusal respectively—unspeakable for them. So far, there doesn't seem to be any 'erosion of women's human status' involved. However, the parallel with Davidson's example only goes so far, and we have not yet considered how pornography gets into the picture. Langton's idea is that pornography sets the conventions of some sexual language games between men and women such that a woman's utterance of 'no' cannot count as a refusal (or at least, as a fully successful refusal) since that utterance cannot secure 'uptake' by being recognized as a refusal by her intended audience. Pornography might do this, for example, by depicting any locutionary act women might make in response to men's sexual advances as a way of accepting those advances, leaving no room for the act of refusal (1993: 57-8).

Have we uncovered a sense in which Langton's model requires an 'erosion of women's human status before the silencing effect kicks in'? Again, it is hard to know exactly how to answer that question in a principled way, but I incline towards a negative answer. The silencing effect *itself* is plausibly an erosion of women's status as human, since we might take silencing someone to be a way of treating them as a mere object (MacKinnon 1987: 182). However, this wouldn't vindicate Fricker. She claims that dehumanization is a *prerequisite*—indeed a cause—of the silencing effect on Langton's model. And that claim is in want of argument. The silencing effect 'kicks in', on Langton's account, due to pornography's authoritative depictions of women as consenting to sex using locutionary acts naturally suited for refusing, and it is not clear in what sense this by itself involves dehumanizing women.

Fricker's own model of the way in which pornography silences women, in contrast, seems to require a great deal of prior dehumanization. In her own metaphor, it requires pornography to erode women's status as human so thoroughly in men's eyes that men cannot even see women's refusals in 'epistemic colour', as explained in the previous section. On Langton's account, when a woman says 'no', men may take her to have consented; on Fricker's account, she might as well not have spoken at all (2007: 139). On both accounts, of course, something goes very badly wrong. But to the extent the question is one we can get traction on, the former seems to involve less dehumanization than the latter.

4. *The Silencing Argument*

We should be wary, then, of Fricker's claim that 'the epistemic model describes the more empirically likely possibility', which she offers as a reason to favour her account of how pornography silences women. However, a deeper problem for Fricker's argument is that it is very difficult to see the relevance of her claim to philosophical debates about pornography and silencing. Langton and others have *not* focused on ways that pornography might silence women at an illocutionary level because they think that doing so enables one to offer an illuminating account of what typically goes wrong when the sexual refusals of women are unsuccessful. Rather, the simplified rape scenarios Langton describes when discussing failed—silenced—attempts at refusing sex are meant to illustrate a way that women could be silenced by pornography that has particular significance for the silencing argument against pornography's status as protected speech. The scenarios form part of Langton's attempted demonstration that if pornography is admitted as speech, it's speech that problematically limits of the speech of women. There's nothing in this job-description that requires Langton's model of how women are silenced by pornography to depict 'empirically likely' scenarios, or ones that are more likely than other kinds of silencing that pornography could, in theory, also engender.⁵

⁵ I draw here on Finlayson 2014, who proposes that Langton's rape scenarios be viewed as 'models' rather than attempts to describe real-life cases of rape. As Finlayson notes, Langton does ask how common 'silencing of this kind and the rape that accompanies it' is (1993: 58), and so she is clearly interested in such empirical issues to some extent. Still, the point is that the silencing argument doesn't depend on empirical claims about the frequency with which women are silenced in the way Langton's account suggests.

It's very far from clear that Fricker's epistemic account of silencing can play the same theoretical role as the account she suggests it should replace. According to Langton and Hornsby, the prevalence and content of pornography makes it the case that women sometimes lack even a reasonable chance of doing what they intend to do in uttering the words they utter; this is the sense in which they take pornography to encroach on women's right to express themselves. It is debatable (and indeed, debated) whether this kind of silencing genuinely involves a violation of a women's right to freedom of speech (see e.g. the exchange between Jacobsen 1995 and Langton and Hornsby 1998). In contrast, it is typically granted on all sides that there's no violation to someone's freedom of speech involved in having one's *perlocutionary* intentions systematically frustrated, where these are the further effects I intend my utterance to have (convincing my audience, reassuring them, cheering them up or making them feel bad about themselves, and so on). Say I want to persuade you to hold a particular belief. Freedom of speech may guarantee that, in appropriate circumstances, I have the right to perform an appropriate locutionary act: uttering a suitable sentence, say. Perhaps I also have the right not to have my intention to successfully assert something with that sentence systematically thwarted (though as just noted, this is already controversial). It's surely not an aspect of freedom of speech that I have a reasonable chance of actually persuading you to change your mind.⁶ Of course, women absolutely do have the right to have their perlocutionary aims respected when

⁶ See Maitra 2009: 317. Maitra takes this to be the basis of an objection to the silencing argument, since it shows how crucial the distinction between the illocutionary and the perlocutionary is to the argument, and she's doubtful that the distinction is in good standing.

refusing sex; as Langton stresses, perlocutionary frustration in this context is nothing more than 'simple rape' (1993: 54). The point is only that this right to have one's intentions respected here isn't generated by freedom of speech (but rather by rights relating to bodily and sexual autonomy, for example). So not all of the ways that pornography can plausibly be said to silence women suggest that pornography erodes women's freedom of speech, and Langton has already described one kind of silencing like this, namely perlocutionary frustration.⁷

Turning back to Fricker's epistemic model of silencing, the question is whether subjecting someone to the kind of extreme testimonial injustice Fricker envisages plausibly counts as a violation of their right to freedom of speech. It isn't clear how one might argue for a negative answer to this question, but neither does Fricker give us any clues about how she might argue for a positive answer. Moreover, the onus seems to be on her to convince us

⁷ Like others in this debate (e.g. Maitra 2009: 309), I have been dismissive of the idea that pornography might silence women in a *locutionary* sense (McGlynn 2016: 333). A very recent paper by Rosa Vince suggests that this kind of dismissive attitude is perhaps premature (Vince 2018; she notes that a related proposal has been explored by Naomi Beecroft), since pornography can lead to women engaging in *testimonial smothering*, in Kristie Dotson's sense (Dotson 2011). (Dotson herself notes that testimonial smothering and locutionary silencing are close cousins (2011: 253 n12)). Some of the criticisms of Fricker I make in this paper may have analogues for Vince's epistemic account of how pornography silences women, but we certainly shouldn't assume this is so; the matter merits independent consideration.

that her notion of silencing captures what is philosophically or politically significant about the rival speech act theoretic notion that she takes it to improve upon.

Perhaps Fricker's lack of attention to this issue is a clue that she simply isn't trying to offer a rival account of silencing that can underwrite a version of the silencing argument. This seems plausible up to a point, but it leaves her discussion very puzzling. As we've seen, Fricker motivates her epistemic account of silencing by explicitly contrasting it with the notion of illocutionary silencing, as understood by Langton and Hornsby. And we've also seen that it's the role it plays in the silencing argument that gives the notion of illocutionary silencing particular significance for Langton and Hornsby. They focus on cases in which women's illocutionary intentions are frustrated, rather than those in which their utterances are prevented from having their intended perlocutionary effects, largely because only the former are plausibly in tension with a right to freedom of speech. Without that constraint in play, it's left unclear why Fricker thinks that the relevant comparison for her account is with illocutionary silencing. The upshot is that whether or not Fricker intends to furnish a rival notion of silencing that can underwrite the silencing argument, the relevance of her comparison to illocutionary silencing is left in question.

This is a crucial point for understanding the nature of my objections to Fricker's account in this section. I'm not arguing that her epistemic account of silencing is objectionable in theory, nor that there are no real-world cases or philosophical cases that it might help us to describe and understand. I haven't even argued that MacKinnon's claim that pornography silences women is false as Fricker wants us to understand it (though I do have doubts on this score). Fricker's notion might, for all I have argued, be philosophically and politically

interesting. Moreover, I endorse José Medina's observation (2012: 205-6) that speech act theoretic conceptions of silencing and testimonial injustice are not in general rivals. We need both in our toolkit to adequately describe the full range of ways in which oppressed voices can be suppressed, and we need to think about how to integrate epistemology and speech act theory. I'll return to this point in the next section. But insofar as our interest is in an interpretation of MacKinnon's claim that could be at the service of the silencing argument, Fricker doesn't demonstrate that her epistemic notion is in the running, let alone that it marks an improvement on the notion of illocutionary silencing. And insofar as our interests are not focused on the needs of silencing argument, it's not clear why Fricker takes the comparison to illocutionary silencing to be the relevant one (rather than, say, a comparison to perlocutionary silencing), and she gives no clues as to what alternative applications might give her notion independent significance. That's the dilemma for Fricker's account.⁸

5. Refusal and Testimony

⁸ I don't intend to endorse the silencing argument here; I discuss some limitations and problems in McGlynn forthcoming: section 2. The point is rather that it's in the context of considering this argument that the notion of illocutionary silencing has particular significance.

Here is my second objection to Fricker's epistemic account of how pornography silences women.⁹ Fricker explains that the kind of epistemic silencing that she describes occurs when a woman's refusal of sex 'is not heard as genuine testimony at all' (2007: 139). On the most natural reading of this, the suggestion seems to be that a woman's refusal *should* be heard as testimony, but isn't because of the silencing effect created by pornography. However, this is a problematic way to think about sexual refusal; even in cases where things go well, refusing isn't best thought of as testifying (Bird 2002: 5). Refusal and consent aren't attempts to testify about anything, but are rather speech acts in their own right that set boundaries on what kinds of behavior is and is not welcome in a particular sexual encounter or relationship.¹⁰

To treat sexual refusal as testimony is to impose the wrong model of what *authority* looks like for this speech act. When thinking about testimony, and assertion more generally, authority is typically a matter of one's epistemic standing (e.g. Williamson 2000: 257).¹¹ The

⁹ Let me briefly mention a third kind of objection, related to the first, which I won't pursue here; one might question whether pornography really does dehumanise or objectify women, and more generally, whether dehumanisation and objectification are significant aspects of women's subordinate social status. See Manne 2017: chapter 5 for a recent defence of this line; I'm not sure whether I agree with it, which is one reason I don't explore this kind of objection to Fricker further here.

¹⁰ These are *exercitives* in Austin's terminology (Austin 1975: 151, Langton 1993).

¹¹ To agree with Williamson and others on this point is not to endorse his more controversial claims that there is a norm that is *constitutive* of the speech act of assertion, and that this

authority required to set a boundary on what kinds of sexual acts are welcome, in contrast, is not primarily epistemic. When a woman says ‘I do not want to do this’, the important issue is not whether she knows this (or stands in some other favourable epistemic position to her own desires and intentions). It may not even really be true that she doesn’t want to do the thing in question, and this in no way undermines the authority with which she draws the line. The authority stems from her sexual and bodily autonomy rather than from her epistemic position. As one important mark of this, others cannot typically consent to or refuse sex on her behalf, no matter how much they know about her desires and intentions. We, as theorists reflecting on the connections between sexual refusal, silencing, and pornography shouldn’t perpetuate the mistaken idea that sexual refusal is a kind of testimony, and Fricker’s account of how pornography silences women seems to commit her to precisely this mistake. In short, I’m dubious that we should be thinking in terms of a kind of *testimonial* injustice here, since I don’t think we’re primarily dealing with testimony.

The argument in this section so far oversimplifies things in a number of respects.¹² First, and as noted above, Fricker draws attention to various passages in which MacKinnon suggests that pornography leads to women being seen as less credible in the eyes of men. Have I just committed myself to denying that issues about women’s credibility are in play in the cases

norm requires that one knows what one asserts (2000: chapter 11): see McGlynn 2014: chapter 5 for discussion of these claims.

¹² Thanks to an anonymous referee for encouraging me to say more here, and for suggesting discussing the examples below in which women’s authority when accepting or refusing sex is more limited than usual.

of failed attempts to refuse sex under discussion? I don't think so, though seeing this requires me to state my objection to Fricker more carefully. As I've stressed, my point is one about the kind of description that we, as theorists, should offer of the cases of silencing. I think it's a mistake for us to classify such cases as ones of failed testimony. But I think that the mistake here is already a common one amongst people in general. The idea that a woman's sexual refusal might be void or unworthy of being heeded because it is insincere or because she doesn't really know what she wants is, unfortunately, all too familiar.¹³ So in particular, I don't want to deny that sometimes men see women as less credible than they ought to when refusing sex, based on gendered prejudices.¹⁴ Moreover, these are dynamics which Fricker's work on testimonial injustice can help us to appreciate and better understand. But the point still stands that we, as theorists, should not fall into the trap of categorizing failed sexual refusal as failed testimony, even if (and perhaps especially if) this kind of mistake is itself one way men misinterpret the refusals of women. In suggesting that the way that pornography silences women is that a refusal 'is not heard as genuine testimony at all', Fricker seems to be offering a diagnosis that makes precisely this mistake.

¹³ Cristina Borgoni has recently (and, to my mind, plausibly) argued that women are sometimes subjected to testimonial injustices when avowing their own mental states, and that this calls into question some of the claims that have been made in the literature on self-knowledge (Borgoni forthcoming).

¹⁴ Presuming that someone is insincere or presuming that they are epistemically incompetent with respect to the topic at hand are the two ways of doubting someone's credibility that Fricker discusses. See [omitted] for discussion of the relation between them.

A second complication is that not all sexual language games—those involving moves like sexual propositioning and consent or refusal—are the same, and so there's a danger of overgeneralizing the claim that sexual refusal isn't properly thought of as testimony. Above I noted that people aren't typically able to accept or refuse sex on behalf of other people, but the qualification is important. In certain circumstances, including, for example, some kinds of sex work, the claim above may not apply. In such circumstances, whether a woman accepts or declines sex may be something that someone else (at least in part) decides, and her own speech may indeed function primarily as testimony concerning that other person's decisions. These cases are interesting since they suggest a different way in which women might be disempowered when speaking, and in particular when making moves in sexual language games. Rather than being silenced in the manner suggested by Langton and Hornsby, where women are sometimes unable to fully successfully perform the illocutionary acts they intend to in making a particular utterance, women might only be able to testify about the decisions of others when they should be in a position to authoritatively lay down their own sexual boundaries. Unlike in the case of silenced speech, as conceived by Langton and Hornsby, women in this second kind of scenario may successfully perform the illocutionary act that they intend to, namely informing the other person of whether they accept or reject their sexual proposition. It's just that many will think that there's a sense in which the women in this kind of scenario *should have* been in a position to perform a different speech act, that of authoritatively deciding on one's own behalf what kinds of sexual activities one will and will not engage in with a given person.

These two related points complicate my second objection to Fricker since they suggest that it would be a mistake to think that we can theorize about the ways in which women are

disempowered in sexual language games without paying attention to the kinds of issues about testimony and credibility that Fricker stresses. Indeed, they reinforce Medina's point, endorsed above, that both speech act theoretic and epistemological issues, as well as their interplay, need careful attention. That said, I think the central points of my critique of Fricker's views still stand. I maintain that we should not in general describe silenced sexual refusals as cases of failed testimony, even while we recognize that sometimes men count what should be authoritative decisions as mere testimony (and as unreliable testimony at that), and that in some circumstances the sexual autonomy of women may be so circumscribed or compromised that testimony may be all that they are in a position to offer. Moreover, on the face of it, neither of these two points has shown the need for appealing to the distinctive notion of silencing as a kind of extreme form of testimonial injustice proposed by Fricker, which involves women failing to even register as testifying by their male audiences. Rather, what these complications suggest is that in addition to the kind of silencing that Langton and others have theorized, we need to better understand the various ways in which women's subordinate social position can systematically lead to their attempts to authoritatively refuse sex going awry.

6. Conclusion

In this paper, I've argued against Fricker's epistemic version of MacKinnon's claim that pornography silences women, and defended the speech-act theoretic account familiar from the work of Langton and Hornsby. Contrary to what Fricker claims, her account does not seem to offer the 'more empirically likely' account of how pornography silences women, and it's not even clear what this relevance of this comparison is for the key philosophical

and political issues about silencing and pornography. Finally, I have suggested that it's a mistake to theorise about sexual refusal as if its testimony in the first place; in refusing sex, a woman isn't proffering knowledge, but drawing a line between sexual conduct that is welcome and that which is out of bounds, and no good can result from failing to separate these.

It is worth noting again that I haven't attempted to argue that Fricker's model of silencing as a kind of extreme form of testimonial injustice is incoherent, false, or inapplicable to other morally- or politically-charged phenomena. However, when focusing on MacKinnon's claim that pornography silences women, I have contended that it's more plausible and politically and philosophically fruitful to think in terms of speech act theory than in terms of Fricker's notion of testimonial injustice.¹⁵

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¹⁵ Thanks are due to the audience at the *Edinburgh Women in Philosophy* workshop on the objectification of women in Spring 2016, and in particular to my commentator at that event, Joshua Habgood-Coote. I'm also very grateful to Giada Fratantonio, Matt Jope, Federico Luzzi, Elinor Mason, Lukas Schwengerer, and to anonymous referees for feedback or discussion which has improved the paper greatly.

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