

Performative Force, Convention, and Discursive Injustice

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I explore how gender can shape the pragmatics of speech. In some circumstances, when a woman deploys standard discursive conventions in order to produce a speech act with a specific performative force, her utterance can turn out, in virtue of its uptake, to have a quite different force—a less empowering force—than it would have if performed by a man. When members of a disadvantaged group face a systematic inability to produce a specific kind of speech act that they are entitled to perform—and in particular when their attempts result in their actually producing a different kind of speech act that further compromises their social position and agency—then they are victims of what I call discursive injustice. I examine three examples of discursive injustice. I contrast my account with Langton and Hornsby’s account of illocutionary silencing. I argue that lack of complete control over the performative force of our speech acts is universal, and not a special marker of social disadvantage. However, women and other relatively disempowered speakers are sometimes subject to a distinctive distortion of the path from speaking to uptake, which undercuts their social agency in ways that track and enhance existing social disadvantages.

What fixes the performative force and pragmatic structure of a speech act? Clearly, surface grammar alone won’t do; in the right circumstances, for instance, I can order someone to close the door using a grammatical declarative (“It’s freezing in here!”), an interrogative (“Can you close the door?”) or a variety of other grammatical forms. And while we sometimes flag the force of our speech acts at the level of semantic content (“I am warning you ...”) we certainly don’t always do so. Instead, as J. L. Austin made vivid, we rely on an elaborate set of discursive *conventions* in order to fix and interpret the force of a speech act, along with the material circumstances of the act, broadly construed (Austin 1962). I decide whether someone is using her words to order, request, inquire, propose, report, and so on by interpreting her as deploying a wide array of explicit and implicit conventions governing context, tone, gesture, etiquette,

conversational flow, and more. Sometimes this deployment is so transparent that I interpret the force of another's speech as effortlessly as I do its content—"Please pass the salt" uttered during a casual dinner among friends, for instance. At other times—for example, when someone says "I'll call you soon" at the end of a first date—I might struggle hard to decide how to situate and interpret the force of a speech act amid the web of conventions, rituals, and circumstantial clues that make up its context. Without such conventions and rituals, speech would have no force at all. I do not succeed in naming babies by shouting names as I run through a maternity ward. Whether a speech act—even one in the presence of an unnamed baby—counts as a baptism depends on a wide array of social arrangements and conventions concerning who gets to name whom and under exactly what ritualistic circumstances.¹ Mere sounds do not carry the elaborate causal powers that attach to discourse intrinsically.

Against this background, my goal in this paper is to explore a specific sort of discursive incapacity. I argue that sometimes a speaker's membership in an already disadvantaged social group makes it difficult or impossible for her to deploy discursive conventions in the normal way, with the result that the performative force of her utterances is distorted in ways that enhance disadvantage. My focus in this paper is on women and how speaking from a gendered subject position can result in a special sort of incapacity, but this emphasis is to some extent arbitrary; I could have explored examples focusing on race, class, home region, or disability, for instance. When members of any disadvantaged group face a systematic inability to produce certain kinds of speech acts that they ought, but for their social identity, to be able to produce—and in particular when their attempts result in their actually producing a different kind of speech act that further weakens or problematizes their social position—then we can say they suffer a *discursive injustice* (by analogy with "epistemic injustice," which is a phrase that has recently gotten a lot of play from Miranda Fricker and others [Fricker 2007]).²

There exists a small but visible literature on what has been called "illocutionary silencing" and the way that women may be especially vulnerable to it. For instance, in a classic paper, Rae Langton writes,

If you are powerful, you sometimes have the ability to silence the speech of the powerless. One way might be to stop the powerless from speaking at all. Gag them, threaten them, condemn them to solitary confinement. But there is another, less dramatic but equally effective, way. Let them speak. Let them say whatever they like to whomever they like, but stop that speech from counting as an action.... Some kinds of speech acts are unspeakable for women in some contexts; although the appropriate words can be uttered, those utterances fail to count as the actions they were intended to be. (Langton 1993, 299)³

According to Langton, a person is locutionarily silenced if she is prevented from speaking, and perlocutionarily silenced when her speech cannot have its intended causal effects, but she is illocutionarily silenced if she is unable to perform the speech acts she intends to perform in speaking, because the speech act cannot receive the right uptake. Such illocutionary silencing, insofar as it is a systematic effect of inhabiting a disadvantaged social position, can be thought of as a kind of limit case of the sort of discursive injustice I want to explore in this paper—although as we will see, this will take some retooling of Langton’s account. I am interested in how a speech act can, in virtue of its uptake, become a *different* speech act than it would typically be, given its social context and standard discursive conventions. This is the sense in which silencing counts as a limiting case: it presumably transforms the act into *no speech act at all*, rather than into one with a different pragmatic structure. I will return to some other philosophically interesting differences between illocutionary silencing (as Langton defines it) and discursive injustice at the end of this paper.

SPEECH ACTS AND SOCIAL UPTAKE

In ‘Yo!’ and ‘Lo!’: *The Pragmatic Topography of the Space of Reasons* (Kukla and Lance 2009), Mark Lance and I distinguish between the pragmatic “input” and the “output” of a speech act. The input of a speech act is the set of entitlement conditions that must be met before it can have its characteristic performative force. These entitlement conditions include contextual constraints, constraints on the relationship between speaker and audience, and the instantiation of various conventions. So, to use a familiar example, I can only (successfully) pronounce you married if we are in the right kind of ritualistic setting, if I am authorized to marry people, if I use the right words, if the betrothed have performed their consent to be married, and so forth. If these input conditions are not met, or at least if they fail to be met dramatically enough, then my speech act will not be an act of pronouncing a marriage, regardless of my intentions.

The “output” of a speech act is the set of normative statuses it institutes.⁴ My marriage pronouncement changes the tax status and family relationships of the betrothed, as well as creating statuses that are less formal and explicit: the groom’s mother-in-law is now obliged to invite him to Thanksgiving dinner despite thinking he’s a cad. Different speech-act types—promises, requests, invitations, assertions, baptisms—have different characteristic outputs. Invitations, once issued, always entitle the invited to attend the event for which the invitation was issued. Baptisms always make it proper to call the thing baptized by the name with which it was baptized. These characteristic outputs do not exhaust the total output of any particular speech act, but they enable us to sort speech acts into pragmatic kinds.

A basic commitment for me is that normative statuses are *material social statuses*. They cannot exist unless they have practical social cash value. Normative statuses supervene on concrete, materially implemented dispositions to act. A speech act that does not *make a difference* to how people are actually disposed to behave does not succeed in having a normative output at all. Statuses such as being married, or being obligated to keep a promise, or being entitled to attend an event, are themselves constituted by social rituals and conventions. A basic commitment to normative status materialism implies that speech acts have their performative force only in virtue of the *concrete social difference that they make, or how they are taken up in practice*.

But this in turn means that a speech act requires *uptake* in order to have any performative force at all. That is, other people must recognize it as shifting normative statuses, so that it can have a systematic impact on people's behavioral dispositions. And *what* uptake it receives is partially constitutive of what speech act it turns out to be. A speech act that gets no uptake whatsoever has no performative force. More interestingly, the details of how a speech act receives uptake help determine what sort of speech act it is, because they help determine its output, or what statuses it actually succeeds in instituting. For example, if I ask my dinner companion, "Do you think we should get married?," this speech act might constitute a marriage proposal, the start of a conversation about the future, a request for an opinion, or a joke. Which it is depends partly upon the social context and input: are we a functioning couple? Is this the right kind of setting for a proposal? What was the rest of the conversation about? But it is also partly dependent upon the uptake: if my companion laughs in my face, or takes me unexpectedly seriously and gives me a definitive answer of a certain sort, then I might learn on the spot what sort of speech act I actually produced, and the answer might surprise me. The social uptake is therefore *part of* the conventionally structured event that determines which speech act something is. Discursive and other social conventions play a role not just in settling whether a speech act was entitled, but in placing that performance in social space after it is complete. The crucial point here is that the enacted conventions and rituals that provide the frame within which any speech act can have a performative force—the rituals that enable a marriage pronouncement, a marriage proposal, a baptism, a promise, or whatever it may be—do not artificially stop at the moment of the utterance. They are temporally extended, and include social performances *after* as well as before and during the utterance. It is the details of these temporally extended, conventionally structured events, which begin before the performance of the speech act and end after its uptake, that settle what sort of performance we actually have on our hands.

There is probably no principled or sharp line between a speech act receiving *mistaken* uptake and a speech act being *constituted*, perhaps in unexpected ways, by its uptake. But there are clear cases on each side.

Consider a religious marriage ceremony whose ritualistic details have no legal significance. A passerby may be unfamiliar with the rituals or their import, and mistakenly misrecognize it as something other than a marriage ceremony, giving it the wrong uptake. But if pretty much no one, including the couple, acts afterward as if a marriage has been instituted, with all the complex shifts in normative status and relationship that go with that, then in effect the ceremony was a kind of show and not a marriage ceremony at all. Here, the problem is not that everyone is mistaken, but that they did not give the ceremony the uptake it needed to constitute it as a marriage ceremony.

This is a quite different notion of uptake from the Austinean one adopted by Langton, Hornsby, and others. They define “uptake” as the audience’s correct recognition of the speaker’s intention. If the target of a speech act misrecognizes these intentions (or doesn’t recognize them at all), then the speech act does not receive uptake, on their view. My notion of uptake makes no reference to intentions. The uptake of a speech act is others’ enacted recognition of its impact on social space. Intentions in speaking are part of the story that gives a speech act the performative force it has, but they are not privileged or definitive; The speaker may only discover, in how her utterance is taken up, what sort of speech act it really was. Furthermore, on my account, unlike the Austinean one, the uptake is not a separable moment of passive recognition of something that already finished happening (the speaker having an intention in speaking); instead it is *part of* the set of events setting the conventional context for the speech act.⁵ Neither words nor intentions have *intrinsic* constitutive force; rather, force is constituted through the deployment of conventions and rituals that typically outlast the speech act itself.

DISCURSIVE INJUSTICE

I am at last in a position to give a more precise explanation of discursive injustice. We have in place a huge network of conventions that determine when a speaker is entitled to issue a speech act of type A in context C. Standardly, if she uses the right words, tones, and gestures to produce a speech act of type A in context C, and she is entitled to do so in accordance with these conventions, then she will, in fact, be given uptake as having performed a speech act of type A—and indeed she will have done so. The audience members who witness her performing the speech act will take it as an entitled speech act of type A and respond accordingly, and thereby help finish making it so, giving it an output that is conventionally matched to its input. If the speech act was a promise, they treat the speaker as bound by her word; if it was a pronouncement of marriage, they treat the couple as married, and so forth.

But, I claim, sometimes being a woman (or having some other relatively disempowered social identity) throws this process off the rails: I might intend to perform a speech act of type A; I might have the entitlement to perform it according to standard discursive and social conventions; I might use the conventionally appropriate words, tone, and gestures to produce it in my current context; and yet—*because of my gender*—my performance may not receive uptake as a speech act of type A. And its alternative uptake can in fact *constitute* it as some other kind of speech act of type B, with an unconventional output, given its input—a different kind of act than a male would have produced using the same words, in the same context, and with the same conventional entitlements to speak. In this way, the force my words may be distinctively *out of my control*. I have become, as it were, the victim of a kind of pragmatic breakdown, from my point of view; I cannot marshal standard conventions in the standard way, in order to act autonomously as a discursive agent. A speech act can be infelicitous because it is unentitled, or because it is performed in the wrong context or in the wrong way. But in the case at hand, there is a different kind of breakdown—a queering of the path between performance and uptake. Furthermore, in the examples that matter to me most in this paper, the speech act of type B that I end up performing, despite my intentions and the standing conventions, enhances already existing disadvantages and disenfranchisements that attach to my gender identity. In such cases, not only have I lost control of my words, but I have also become a victim of discursive injustice. Victims of discursive injustice are, in virtue of their disadvantaged social identities, less able to skillfully negotiate and deploy discursive conventions as tools for communication and action than others.

Let us turn to some examples.

IMPERATIVES VS. REQUESTS

Celia is a floor manager at a heavy machinery factory where 95% of the workers are male. It is part of her job description that she has the authority to give orders to the workers on her floor, and that she should use this authority. She uses straightforward, polite locutions to tell her workers what to do: “Please put that pile over here,” “Your break will be at 1:00 today,” and so on. Her workers, however, think she is a “bitch,” and compliance is low. Why? One possible explanation is that the workers are just being blatantly sexist and insubordinate. They are refusing to follow her orders, which is still a way of taking them as orders. This sort of direct transgression is relatively straightforward. But a subtler and more interesting explanation is that even though Celia is entitled to issue orders in this context, and however much she follows the conventions that

typically would mark her speech acts as orders, because of her gender her workers take her as issuing *requests* instead.

Mark Lance and I have argued elsewhere (Lance and Kukla, forthcoming) that requests are not just weak orders; they have a distinctive pragmatic structure. Orders are designed to impute *obligations* to follow them. It is in the nature of a request, however, that acknowledging its legitimacy leaves the one requested *free* to grant or refuse the request. Granting a request is never obligatory; it is essentially a favor. The freedom to grant or refuse a request is not a product of its being too “weak” to obligate. If I ask you to come over and hang out with me on a lonely evening, for instance, I don’t seek to obligate you to come over. I want you to come over, but I want you to *choose* to do so as a favor to me. I’d be somewhat chagrined to learn that you came over out of a sense of obligation.⁶ Accordingly, the proper response to a request being granted is always *gratitude*, even if token gratitude. On the other hand, gratitude in the wake of an order being followed is not only not required but is in fact infelicitous. To be grateful to someone for following an order is to undermine its authority as an order.

My point, here, is not about ordinary-language uses of the terms *order* and *request*, which are surely less precise and distinct than is my use of them here. Instead, I am using the terms to call attention to two rather different kinds of social acts that we can perform with words, with correspondingly different performative force, and calling for correspondingly different kinds of uptake. Crucially, whether someone is performing an order or a request is not determined primarily by surface grammar, but by the way her act, in all its material texture, is situated within a social narrative that takes place in a context that is structured by normative relationships of authority, friendship, and so forth, as well as a rich network of discursive conventions and social rituals.

Let’s imagine, then, that the workers are deeply unaccustomed to taking women as authorities in the male-dominated space of the workplace—the skills that they have mastered that govern conversation with females in the workplace simply don’t include conventions for recognizing them as issuing orders and responding accordingly. Instead, they hear and respond to all of Celia’s orders as requests. Because of her gender, she cannot employ normal discursive conventions to mark her speech acts as orders. She might add, “No really, I mean it!” or “I will dock your pay if you don’t do this now!” and this still might not overcome the fact that her body marks her as not an ordering authority in this context. No matter how carefully she cleaves to what would normally be the conventions for ordering, the local context and discursive practices surrounding her speech acts—which will always include the workers’ uptake of and response to these acts—will in fact turn them into requests instead.

This in turn causes Celia a variety of problems. Most obviously, if granting her requests is optional, compliance will be relatively low. This will make it difficult for her to run an efficient workplace; she will literally be bad at her job.

More subtly, we can understand why her workers think she is a “bitch” without recourse to explicit misogyny. For instance, if Celia is taking her speech acts to be orders when they are instead functioning as requests, she is unlikely to show gratitude when her workers do as she asks. This is a “bitchy” social violation. And of course, what counts as a perfectly polite order might come off as rude or brusque as a way of asking for a favor. If in the face of noncompliance she delivers her orders more firmly and stridently in order to get across their intended force, she becomes an even bigger bitch who doesn’t even ask nicely. Nor can Celia solve the problem by accepting her fate and embracing the fact that her speech acts are requests, showing gratitude when they are granted, because this will further chip away at her authority and make it even harder for her to do her job effectively. Celia’s gender queers her ability to exercise her agency through speech, precluding her from effectively deploying the discursive conventions suited to her social position and needs. She is in a discursively unmanageable position where each new attempted order and each new response chips away yet more at her ability to use speech to control action in the workplace.

Contrast Celia’s case with Donald Davidson’s example of an actor on a stage who attempts to alert those in the theater to a real fire, fruitlessly shouting, “I mean it! Look at the smoke!,” while his audience takes him to be acting in the play (Davidson 2001, 269–70; also quoted in Langton 1993, 316). Langton comments, “The actor says words that are appropriate for the action he wants to perform. He gets the locutionary act exactly right. . . . But he does not warn. Uptake is not secured. Something about the role he occupies prevents his utterance from counting as a warning” (Langton 1993, 316). This is a similar case to Celia’s, but there are two important differences.

First, as far as stable, readily identifiable conventions are concerned, Celia *should* have no trouble issuing an order. Her problem is not that she is embedded in some straightforward ritualized context with its own stable norms that trump the normal ones. Performing in a play is a highly ritualistic activity in which nonstandard discursive norms are systematically in play. (We don’t count grammatically declarative statements performed during a play as assertions, and so forth.) But in Celia’s case, to whatever extent she is in a nonstandard conventional context in virtue of being a female floor manager, this is so only in virtue of subterranean assumptions and habits concerning gender, embodiment, and power that are hard to articulate; and even if we managed to describe them accurately, those who were subject to them would be unlikely to acknowledge their prescriptive force. (Or so let us assume; again, Celia might work in an old-fashioned factory where the employees are completely open about their sexism, but this is less interesting, and no longer typical in 2012.)

Second, the stage actor is not a victim of discursive injustice. His inability to issue a warning does not track or enhance any systematic disadvantage or failure of agency. He might find it frustrating that he is having trouble issuing a warning

because he is stuck in a play. But he is unlikely to find his situation baffling, nor to feel that his discursive agency is undercut in any deep way. His disability is local and clearly bounded, whereas Celia's problem infects her whole professional life and is rooted in broad, deeply seated social facts about gender relationships and unjust power imbalances.

I am not making any claim about how common Celia's problem is. I am not saying that this kind of discursive injustice is the fate of female bosses in general, or female managers in factories, or anything of the sort. Indeed, if these effects were sufficiently regular they would become stable conventions in their own right, which could be managed and deployed in the normal way, even if they were politically unfortunate.⁷ I offered a hypothetical but I hope recognizable case in which being female precludes someone from deploying conventions in the normal way, and queers the pragmatic structure of her speech acts in ways that she cannot control, thereby undermining her capacities for communication and interpersonal coordination.

ENTREATIES TO SPEAK

My entitlement to perform a speech act depends on fixed facts about my credentials and authority, but also often on the particular relationship between me and the person to whom I am speaking (I can issue different imperatives to my students than to my son, and so forth) as well as on the particular circumstances in which I am speaking. In order to issue a speech act with a particular performative force, I have to be embedded within a normative relational space; I have to be *recognizable*, in situ, as a player in the relevant discursive game. The rules governing a game can be distinguished from the rules governing who counts as a participant in the game. Sometimes these rules are explicit: Civilians can't issue orders with military authority, people without medical credentials can't prescribe drugs, and so forth. Sometimes they are implicit: Counting as a member of a group of friends or as a respected community elder comes with certain discursive privileges, but the standards for inclusion in such groups are not well-defined. One way the performative force of a speech act can be derailed is if one speaks as an insider—a player of a game that comes with certain discursive privileges—but is not given uptake as one.⁸

Sometimes we use speech not to make a move within an established game structured by conventions, but instead to try to gain entry to a game—we speak in order to be granted status as a speaker with normative standing within a discursive subspace. We can name such speech acts *entreaties*. Entreaties are spoken from outside into the space in which certain kinds of speech acts get traded around; we may think here of a kid on the playground asking, “Can I play?,” which is not itself a way of playing whatever game is underway but of seeking to

join. Or consider a man approaching a woman at a bar, and asking her, "Can I offer you a drink?" This is not yet quite an offer of a drink; it is an attempt to enter into the kind of relationship with her in which an offer of a drink at the bar is appropriate. *The Godfather* opens with a lovely example of an entreaty: Bonasera comes to Corleone on the day of his daughter's wedding and attempts to request a favor. Notoriously, Corleone points out to him that he is in no position to make this request; he has not participated in the local conventions and rituals of "friendship" that give him standing to even make the request, quite aside from whether it is granted. At this point Bonasera kisses Corleone's ring and says, "Be my friend, Godfather!" This speech act is a ritualized entreaty; in supplicating, Bonasera seeks recognition as a specific sort of insider who is entitled to make requests.⁹

In many scenarios, I suggest, women have good reasons to believe that they are *already* participants in a discursive game, until it becomes clear from how their speech receives uptake that their attempted moves within the game are actually functioning as entreaties to join it. We often need to ask to be granted the right to play, in circumstances in which men are taken as players automatically. Thus the very same utterance that would be a move in the game coming from a man can become an entreaty when spoken by a woman.

I think we see this kind of discursive injustice frequently when women try to speak as experts in a male-dominated field. Expert speech has a specific kind of default weight. This takes many forms. An expert's claims about his subject matter, though never appropriately treated as infallible, become more than just truth claims to be subjected to scrutiny and challenge at the whim of any interlocutor. When someone makes a claim about his area of expertise, this claim, though challengeable, has *prima facie* standing; his recognized expert status itself gives listeners some reason to trust what he says. Conversely, other experts do not get to just overrule his claims in virtue of their own expertise, as they could with a lay speaker. When someone makes a proposal or offers advice within his domain of expertise, his standing as an expert itself gives some (defeasible) reason for others to act as he proposes or advises. Advice from an expert demands a different kind of uptake than does advice from some random person off the street. Speaking as an expert thus comprises a special set of discursive practices, and only those who are recognized as having the right standing can perform the speech acts that are distinctive of expert discourse. Often, however, women find that despite meeting conventional standards for counting as an expert speaker, our speech is taken as an entreaty to speak as an expert rather than as expert speech. These bids leave others free to decide whether to grant us discursive access to the game. Notice that this is different from saying that women's professional opinions are not taken as true, or that our recommendations are not followed. The point is not that men tend to undervalue women's contributions to expert debates and discussions, but that they often don't recognize them as contributions at all.

This means that we cannot marshal the usual conventions in order to establish ourselves as expert speakers. This has at least two important consequences. First, to the extent that our attempts at expert speech are given uptake as entreaties, this places the power to grant entry to the discursive game in the hands of the ones entreated; it becomes, in effect, an act of generosity on the part of our peers to let us play. But the norms for inspiring such acts of generosity are not the same as the norms for expert speech itself. Hence if we don't realize in advance that we will be heard as entreating rather than issuing expert speech, we may well not do ourselves any discursive favors. Giving good arguments, speaking with confidence, and otherwise behaving in ways that would count as "playing well" if we were already recognized as playing can come off as arrogant and off-putting if we are merely entreating. Second and conversely, if we do in fact produce a successful, generosity-inspiring entreaty, in doing so we may have already undercut our potential to be taken seriously as players once we are granted admittance to the game. Women in particular need to prove that they will be nice and appealing playmates in order to be allowed to play. But being nice and appealing is often neither empowering nor professionally compelling. In gaining access to the game, we may have already undermined our status as heavyweight experts, and achieved some kind of permanent protégé or acolyte status instead. (It is also interesting to think about how norms for playing nice and being easy to get along with are coded along lines of race, gender, sexual orientation, and so on, and are surely complexly intersectional as well. What it takes for a black man, or a gay man, for instance, to come off as a nonthreatening playmate may be quite different than for a straight white woman. Entreating requires different forms of supplication for different sorts of people, and these forms of supplication can undermine the speaker's potential to speak as an authoritative expert in different ways.)

ASSERTIONS VS. EXPRESSIVES

When I assert something, I am making a truth claim about *how the world is*, and it either is or isn't that way for *everyone*. Thus to the extent that my claim provides a reason for belief, this reason is not structurally indexed to anyone in particular; it makes just the same claim on anyone who has access to it. If I make a request of Sarah, it gives her a reason to act that is specific to her; even if Kate hears my request and understands its legitimacy, it does not give *her* a reason to act in any direct way. But if I *assert* something to Sarah, and Kate overhears my assertion and understands its entitlement, then it gives her the *very same* reason to believe its claim as it does Sarah. Likewise, if you assert something that contradicts what I assert, then we necessarily *disagree*. We are both making claims about the character of the *same* world, which cannot have

contradictory properties, so our contradictory assertions cannot both be legitimate. In contrast, you and I can make contradictory requests, contradictory proposals, and contradictory promises, and they all can be legitimately entitled. The set of all true assertions has to *fit together* into a coherent whole in a special, externally constrained way that the set of all speech acts more generally does not. When we trade assertions with one another—that is, talk and argue about how the world is—it is a governing norm of the game that we must try to fit our respective assertions into that same coherent whole. (Of course, we can give up and agree to disagree, but then we have just opted out of that discursive practice for the time being.)

In her classic paper, “Anger and the Politics of Naming,” Naomi Scheman points out that women’s emotional reactions are often taken as “irrational or non-rational storms. They sweep over us and are *wholly personal*, quite possibly hormonal. The emotions that fit with this picture tend to be diffuse, like moods, or episodic and undirected. They don’t, in any event, *mean anything*” (Scheman 1993, 24–25). To reframe Scheman’s point slightly, women’s emotional speech acts are often interpreted (including self-interpreted) as incapable of bearing cognitive content that is accountable to external facts about how things are; they are taken as mere *expressions* of emotion rather than as claims. One of the major epistemic achievements of the consciousness-raising practices of the 1970s, Scheman argues, was that it revealed women’s expressions of emotions such as depression and anger to be rational responses to facts about their situation, as *truth-bearers* of a sort rather than as, say, premenstrual symptoms. Through social *recognition* and social *repetition*, these “outbursts” can begin to show up as meaningful speech acts that are accountable to rational standards and objective facts.

What interests me here is the difference between a speech act receiving uptake as “wholly personal” and its receiving uptake as an objective response to how things are, whether a correct or an incorrect one. To the extent that your expression of anger is just a hormonal outburst, it makes no particular epistemic claim on *me*. It doesn’t even make sense for me to ask whether I agree or disagree with it, or whether it reflects the world correctly. There is no point to my *arguing* with you about whether you should have it; it is merely an expression of feelings, disconnected from rational discourse. But if your anger is a cognitive response to facts about the world, then it provides me with a *prima facie* reason to think there is something anger-worthy happening, and this has consequences for my belief structure. In this case, challenging your reasons for your anger makes perfect sense. We can call such “wholly personal,” non-truth-bearing speech acts *expressives*. Expressives have no generalized epistemic consequences for others. They can be tolerated or suppressed, but assessing how they fit in with an overall story about how things are is not appropriate.

I think that women’s attempted assertions are given uptake as expressives in various domains; the phenomenon is not restricted to expressions of emotion. In

particular, this form of discursive injustice seems to be common when women claim that some action was sexist. The same thing frequently happens when members of racial minority groups claim that something is racist, but I will focus again on the gender case.

Here are two potential examples: A female employee claims that her boss is inappropriately flirtatious; a female professor claims that her department members systematically devalue other female job candidates' talks. In both cases, the speaker intends to make, and is in a position to make, a truth-claim. She draws on her experiences and other evidence in order to come to a conclusion about how things are, and then she claims that they are so. There is no reason, of course, why her words should be taken as infallible; she might well be wrong about the role that gender is playing and the proper interpretation of those she criticizes in either case. Maybe she is misreading the body language of her boss, inflating the quality of the job talks, inducing a pattern too hastily, or whatever. All the same, she is attempting to put forth a claim about objective events in the external world, which seeks uptake in the form of agreement or rational challenge from others.

But often, I think, these sorts of speech acts, when women perform them, are taken as expressives rather than as claims about the world—more like “ouch” or “congratulations” than like a truth-claim. “My boss is inappropriately flirtatious with me” is received as some kind of expression of a feeling of discomfort; “female job candidates are being devalued” as an expression of a feeling of sympathetic solidarity. Liberal-minded peers may be tolerant and supportive of such speech; others may be irritated by it, finding it unseemly, whiny, or troublemaking. But somehow, membership in the group against which one is claiming discrimination often demotes what would normally be taken up as a claim about the world (calling for agreement, disagreement, challenge, deference, and so forth) to some sort of personalized reaction cut off from normal habitation within the space of reasons.

When women claim that someone is being dismissed, sexualized, or diminished on the basis of her gender, often the response is to point out how the behavior in question *might* perfectly well have an explanation other than sexism, and how we don't know enough to judge. Indeed, taken in isolation, almost any incident has plausible explanations other than sexism. But when women point out the same kinds of incidents over and over again, the evidence ought to build that we have systematic sexism on our hands. Instead, the case seems to need to be made from scratch on each occasion; and if we have only an isolated incident to work from, then the case becomes hard to make. I suggest that this dynamic occurs in part because women's claims to sexist treatment aren't taken as building on one another as part of a shared picture of the world in the way that they should be. Instead, what would typically be taken as a claim about public events, given standard discursive conventions, is instead taken, in the first instance, as

an expression of a personal reaction. If the speaker pushes the point, then the incident is redescribed as an uninterpretable, isolated incident about which it is impossible to have an informed opinion, rather than as a part of an overall meaningful pattern. The result is that we end up having the same conversations over and over again.

Of course, all this needs to be put moderately. Often we do have genuine conversations about sexism, and over time we have come to recognize various behavior patterns as sexist. Enormous progress has been made. What I am trying to tease out here is the way that a certain kind of speech act seems often (though not always) to function differently from a normal assertion in terms of the kind of uptake it gets—it is greeted with tolerance or intolerance for someone's venting rather than as a normal piece of evidence—with the result that patterns of sexist treatment become frustratingly and unusually slow to be recognized. If this reading is right, then we have an example of discursive injustice on our hands, and not just a disagreement over facts.

POWER, ILLOCUTIONARY FORCE, AND THE LIMITS OF DISCURSIVE AGENCY

By now it should be clear that my account of discursive injustice is importantly different from the Langton/Hornsby account of “illocutionary silencing,” even though they are similar in spirit. I pointed out at the beginning that as I am using the term, “uptake” does not mean mere recognition of the intentions of the speaker. Rather, I've been drawing on a picture of the pragmatics of speech in which speaking is a material act, and the total material context, including how rituals and conventions are mobilized before, during, and after the speaking, constitutes the force of a speech act. The uptake of the speech act is how it gets recognized and responded to in practice. This is both more and less demanding than Langton and Hornsby's version. They claim that “illocution demands only minimal receptiveness on the part of the audiences” (Hornsby and Langton 1998, 34), whereas in the examples I have given, successful performance of a speech act typically depends on much more robust, active, and elaborate forms of uptake. At the same time, correct recognition of speaker intention is not typically a necessary condition for proper uptake, although it may sometimes be.

Langton and Hornsby have to claim that speech acts cannot have illocutionary force unless they receive uptake in order to get their account of illocutionary (as opposed to locutionary or perlocutionary) silencing off the ground. But if giving uptake is a psychological act quite separate from the original speech act, then why should it be required in this way? Daniel Jacobson makes this point, and worries that their account seems to hold illocutionary force hostage to the vagaries of the psychology and attention of the audience (Jacobson 1995). Indeed, there's a sense in which the Langton/Hornsby account cannot be *exactly*

right. If we are going to maintain a strict Austinean illocutionary/perlocutionary distinction, as Langton and Hornsby do, then illocutionary effects and forces are those that are accomplished *in the act of speaking itself*, as opposed to those caused by the speech act. Austinean illocutionary effects are immediate: the ship is named *in* the act of baptism, and so forth. But on their account, performative force is not effected in the act of speaking, but rather partially constituted by a wholly separate, contingent subsequent event, namely the audience's recognition of the speaker's intention. But this recognition is a perlocutionary effect of speaking, and hence the performative force they are talking about does not seem to be illocutionary after all.

In contrast, on my account, it is (I hope) clear why the uptake of a speech act helps constitute the force of that act: again, uptake involves responsive action that mobilizes various norms and conventions, and this action forms an integral part of the entire material and conventional context that enables speech acts to have particular performative forces. We've known since Austin that conventions and rituals enable speech acts to have determinate performative forces; I have argued that *which* conventions and rituals are in fact instantiated is often not a question that can be answered until *after* the speech act has occurred, because they are quite literally *not finished* until people respond. The uptake, on my account, is not a separate second event, but an integral part of the entire performative context of the utterance. Because the context that constitutes the performative force of a speech act is an extended, integrated material event that begins before and ends after the utterance itself, and because it is always contingent and never certain how an act of speaking will influence events, I do not use the language of illocution and perlocution; although the distinction has some intuitive heuristic use, I think it ultimately breaks down. So the kind of queering of the path from input to output that I have been discussing in this paper can't properly be termed illocutionary breakdown. I prefer to describe it simply as an unjust distortion of the *performative force* of the speech act, where performative effects are not neatly categorized as illocutionary or perlocutionary.¹⁰

Langton and Hornsby understand the ability to control the performative force of one's speech to correlate directly with social power more generally, and they defend the right to "freedom of illocution." Langton writes, "The ability to perform illocutionary acts can be viewed as a measure of authority, a measure of political power" (Langton 1993, 316). But freedom of illocution seems an inappropriate goal. No agent ever has complete control over the performative effects of her utterances. This would require not only god-like control over our material circumstances and skillful mastery of local conventions, but the impossible ability to control the concrete social effects the speech act will have, including the responses it gets from others.

In fact, it does not seem to me that the various limits on our discursive freedom neatly track lack of social power more generally, in the way that

Langton and Hornsby suggest. Discursive injustice occurs when our loss of control over our speech comes from our inability to mobilize conventions in the standard way, resulting in a failure of agency that tracks and enhances social disadvantage. Thus discursive injustice is a risk faced by the relatively disempowered. However, this does not mean that those in relatively advantaged positions are the masters of the performative force of their speech acts, nor that they are exempt from subjection to the kind of queering of conventions that I have been exploring. Indeed, sometimes being in a position of social power can *itself* be what makes some standard mobilization of discursive conventions impossible.

Consider an older male faculty member who is attracted to his young female graduate student. Being a basically well-intentioned fellow, what he would *like* to do is to *invite* her, in the gentlest possible terms, to reciprocate his affections. Indeed, he is horrified at the idea that she might take him as ordering or even requesting that she have sex with him; he does not want her to feel compelled to sleep with him, or even to sleep with him as the granting of a favor. He wants to sleep with her only if she is genuinely and freely interested. And so he tries to issue this invitation. But it may well be that no matter how he words and performs the speech act in accordance with the standard conventions for issuing an invitation—no matter how much he assures her that he is inviting rather than requesting or ordering, that there will be no repercussions from her turning him down, and so on—it is simply impossible for him to broach the topic without creating pressure to acquiesce. This needn't be because she is misinterpreting his intentions; she may believe that he sincerely intends to invite, but the structure of power relations may be such that his speech act can be taken up only as a request or an order. (And hence notice that the problem here is not a failure of uptake in the Austinean/Langtonian/Hornsbiesque sense.) In this example, it is precisely *because* of the professor's position of relative power that there are specific limits on what he can do with words.

This is not a case of discursive injustice. The case of the well-meaning, smitten professor is not a case in which someone's entitled deployment of conventions to *do things* with words ends up further undercutting his agency in virtue of his social identity. His inability to issue an invitation does not track systematic disadvantage; if anything, the opposite is so. It is, however, a helpful reminder that all of us are always partially dependent on the uptake of others when it comes to fixing the force of our words, and none of us can completely control this uptake. Furthermore, the social network of norms and conventions that make performative effects possible in the first place necessarily does so by constraining what each of us can do with words. Speaking is a fundamentally collaborative project. As such, it is fraught with the same sorts of complicated power relations and material contingencies that mark social life in general.

NOTES

This paper is an offshoot of work that I have been doing with Mark Lance over the past eight years, and it owes a great debt to both my formal writing and my informal conversations with him. The paper was originally written for presentation at an invited APA symposium on feminist philosophy of language (Boston, Mass., December 2010), and I am grateful to my co-panelists, Lynne Tirrell and Mary-Kate McGowan, whose own papers helped me develop this paper into its final form. Conversations with Cassie Herbert, Jessica Williams, and Eric Winsberg were extremely helpful, as were comments from anonymous reviewers at *Hypatia*.

1. The maternity ward example also appears in Kukla and Lance 2009.

2. See also the symposium devoted to Fricker's book in *Episteme* 7 (2), 2010. One of Fricker's main foci is the way that certain agents, in virtue of their social identity, are disabled from providing *testimony* in the normal fashion. Since providing testimony is a speech act of just the sort in which I am interested, this kind of epistemic injustice would be a subspecies of discursive injustice, as I am using the term.

3. This phenomenon has also been discussed in, for instance, Hornsby and Langton 1998 and Jacobson 1995.

4. This is closely related to the set of illocutionary effects of the speech act. I prefer not to use the language of illocution. As we will see later, the distinction between illocutionary and perlocutionary effects breaks down somewhat on my account.

5. I am not making any claims about the role of speaker intention in fixing the *content* of the speech act here. I leave the role of intention in fixing semantic content—which is a complex topic, to understate the case—to others. My claim here is that intention is neither what must be recognized in uptake, nor does it have a privileged role in fixing the *performative force* of a speech act.

6. It is, as Jacques Derrida nicely puts it, unfriendly to respond to a friend out of duty (Derrida 1995, 8).

7. The same goes for thinking about how discursive injustice can be suffered on the basis of race, class, or any other concrete disadvantaged identity that can shape the social uptake that one's speech acts receive. In fact, if such effects were consistent and rule-governed, they would just become conventions (albeit sexist or racist or classist ones), and then they would not really be part of the phenomenon I am getting at. All we can do is note trends, tendencies, and risks for people who speak from particular social positions with particular bodies.

8. My father told me the following joke when I was a child: The rabbi of a small town believes he is alone in the synagogue one afternoon. Overcome by the majesty of the universe, he kneels down and begins to beat his chest, exclaiming passionately, "Oh God, I am nothing! I am nothing!" The mayor of the town, passing by on his morning walk, hears the rabbi's passionate cries and is moved to join him. Kneeling beside him, he too begins to beat his chest and cry out, "Oh God, I am nothing! I am nothing!" Their cries reach the ears of the richest banker in town, who enters the synagogue and joins

them, kneeling beside them and tearing at his hair, wailing, "Oh God, I am nothing! I am nothing!" The janitor has been lurking in the background, watching them come in one by one while sweeping out the bathrooms. He is moved by their devotion, and kneeling down beside them he too begins to beat his chest and call out, "Oh God, I am nothing! I am nothing!" The mayor turns to the banker and rabbi, and, pointing at the janitor, says, "Look who's nothing!"

9. Lance and Kukla (forthcoming) discusses entreaties, including the Bonasera example, in more detail.

10. A natural question, in light of my analysis, is how we might combat discursive injustice. Surely, sometimes language itself can be used as a strategic tool for resisting problematic conventions that systematically disenfranchise some speakers or distort some people's speech. Language can also be used to try to force certain kinds of uptake, on one's own behalf or on behalf of others. Sometimes, of course, the best responses to discursive injustice will not themselves be directly discursive. Celia's problem might be best solved by her factory hiring more women, for instance. My goal in this paper has not been to suggest techniques for combating discursive injustice, but just to point out its existence and analyze its workings.

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