

IV. SILENCE AS ACCOMMODATION FAILURE

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1. *Introduction*. Brandeis: remedy for ‘evil’ speech is ‘more speech, not enforced silence’. Bad speech should be fought with good, and can be. Reality: constraints on speech, drowning out by megaphones of power and wealth; absence of counter-speakers in speech-situation; poverty of time, money, or education; costs and threats; structural handicaps, which silence by making certain speech acts difficult, or impossible, to accommodate.

2. *Impossible speech acts: illocutionary disablement*. Austin on misfire: low type who fails to name ship; misfiring marriage; warning, for an actor; sexual testimony and refusal.

Something is said: ‘No!’

Requirement: illocutionary force is sexual refusal.

Felicity conditions: practical authority of speaker; intention to refuse; uptake of hearer; convention that ‘no’ is appropriate locution for refusal.

Infelicitous outcome: Speaker fails to refuse: ‘No!’ does not count as a refusal.

Diagnosis? Failure of felicity conditions. Which? Interaction: uptake, authority, convention.

Compare with *costly speech*: speaker speaks but risks penalty.

Compare with *perlocutionary frustration*: speaker does not perform perlocutionary act, e.g. refusal recognized but not respected; testimony recognized but not believed (Fricker).

Compare with *locutionary inhibition*: speaker does not perform locutionary act, given risk of harm, illocutionary disablement, or perlocutionary frustration.

3. *Difficult speech acts*. Bad speech can sometimes be answered by ‘free and fearless reasoning’ (Brandeis), or made to misfire, by hearers’ blocking (‘Whaddya mean, *even?*’). But there are serious costs and handicaps.

3.1. *Epistemological: under the radar*. Attention deflected from what is presupposed.

3.2. *Epistemological: shared knowledge*. What is presupposed is presented as taken for granted, Ignorant hearer can take on board; hearer who knows better can be swayed, or inhibited.

3.3. *Epistemological: lower speaker accountability*. Speaker seems more accountable for, owes more reasons for, assertion than for presupposition.

3.4. *Structural: unblockable by simple negation*. (Cf. slurs, thick concepts.) Special case: yes/no questions in courtroom cross-examination (Davies). Compare: disablement of testimony.

3.5. *Structural: asymmetric pliability of accommodation*. Cf. Lewis on standards, McGowan, Simpson on oppressive speech.

3.6. *Normative: blocking derails conversation*. Violates norms of co-operation by attending to background rather than foreground.

3.7. *Normative: enactment* of authoritative directives overturned only by undermining authority.

3.8. *Normative: asymmetric norms* of politeness, risk-taking, deference exaggerate these.

4. *Difficult generics*. Reminder: *Majority* generics presuppose statistical majority have it. *Striking property* generics presuppose property is striking, of urgent importance, true if even few have property. *Characteristic* generics presuppose have it in virtue of their nature, true even many/most lack property. Ideal generics, disguised norms. (Leslie) Additional handicaps?

4.1 *Generics are stubborn*. Resistance of *all* forms of generic speech acts to counter-example (for different reasons).

4.2. *Generics are slippery: descriptive*. Epistemological difficulty of tracking which of three kinds of descriptive generics is in play.

4.3. *Generics are slippery: descriptive/normative*. Epistemological difficulty of tracking whether normative or descriptive generics are in play.

4.4. *Generics are self-escalating*. Tendency to move towards the ‘essentializing’ characteristic generic, given a starting point in the statistical or striking property generics. (Leslie, Haslanger)

4.5. *Normative generics are especially stubborn*. When normative generics are in play, attempts to overturn a rule enactment, or ideal, tend to misfire.

4.6. *Presupposition-related handicaps*. All listed under 3 above.

4.7. *Transgressions can backfire*. Transgressive attempts to fight ideal generic (‘Boys *do* cry’) can reinforce gender roles being fought (Leslie).

4.8. *Refutations less cognitively accessible*. (Leslie *et al*: children’s grasp of generics pre- dates capacity to articulate content)

4.9. *Social looping*. Social generics as self-fulfilling: false statistical and characteristic generics can become true statistical generics, bolstering false characteristic

Quotations

1. If there be time to expose through discussion the falsehood and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence (1927).

2. [Pornography] conditions [some men] to think, for example—as some stupid judges have instructed juries in rape trials—that when a woman says no she sometimes means yes. (R. Dworkin)

3. ‘However they disguise themselves, or however friendly they try to be, affirming a thousand times their good intentions to us, one must not believe them. Jews they are and Jews they remain. For our Volk they are poison.’ “Like the poisonous mushroom!” says Franz.’ (*Der Giftpilz*, Streicher Verlag, 1938)

4. The victim, usually a girl (but boys are victims too), is invariably blamed for their own assault. They should not have gone to visit the boy; should not have worn a tight top; should not have had the drink; have ‘done it before’ so have no right to say ‘no’. (Coy *et al*, 2013) ‘It was a bit her fault for wearing that top. It is a bit her fault’ (Young woman, year 11). ‘So ... maybe because she dressed like that, maybe she wants it in a way’ (Young man, year 11). ‘I think she would be more responsible because she had that top on.... Because it started off with that top saying...’ ‘It’s like a door saying Fire Exit, you’re going to go through that if there’s a fire.’ ‘Yes, big flashing sign saying come to me. It’s like a sign on your head

saying shag me...’ (Young men, year 11). [Responses to imagined situation:14-year-old gang-raped by three boys] (Coy *et al*, 2013)

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