

I. ACCOMMODATING AUTHORITY

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1. *Accommodating injustice*. As theorizers of idealized speech, we don't sufficiently accommodate injustice, i.e. acknowledge it and make space for it. As speakers and hearers, we accommodate injustice rather well, i.e. adjust to it, and help it along. Authority, norms and knowledge can follow patterns of accommodation, enabling some speech acts, and silencing others, for good and ill.

2. *Two pictures of speech and its defects*. Brandeis on speech, its defects, and remedies for these. Authoritative speech can pose different problems. *Subordinating* speech acts are not just 'falsehoods and fallacies', but acts of 'authoritatively saying someone is inferior' (MacKinnon): they *rank* as inferior, *legitimate* discrimination, *deprive* of powers, rights, authority, e.g. Alabama slave law, Nazi propaganda. 'Free and fearless reasoning' can't straightforwardly answer it. (Important factors to be set aside: slurs and epithets, in locution; disgust and hatred in perlocution.) Can more informal hate speech subordinate? Perhaps, if it can gain authority in informal ways.

4. *Accommodation*. A routine process of adjustment that makes speech acts count as 'correct play' (Austin, Lewis). 'Illocutionary' speech acts distinct from their content ('locution') and their effects ('perlocution'). A sports analogy, and disanalogy. Naming: 'I hereby name this ship the Queen Elizabeth'. Permissibility: master to slave, 'You are now permitted to cross the white line'. Presupposition: 'Even George could win.'

5. *A three-part pattern*

Requirement: at *t*, something is required for 'correct play' (e.g. permissibility, presupposition)

Felicity Conditions: certain conditions hold (e.g. master has authority, hearer does not block)

Felicitous Outcome: 'correct play' — at *t*, what is required comes into being (e.g. truth about permissibility, acceptability of presupposition).

6. *Brief remarks about—*

— *Felicity Conditions*. Conditions for the speech act's illocutionary force. May include institutional facts, e.g. about authority, procedure; speaker's intention; hearer's uptake; or hearer's failure to block. Can include facts about absence; about hearers; about future.

— *Misfires*. Speech act fails when felicity conditions are not fulfilled, e.g. Austin's 'low type' trying to name the ship. Illocutionary failure contrasted with perlocutionary. Its political significance in illocutionary disablement.

— *Score and Common Ground*. Score: evolving normative structure, constraining and enabling what speakers and hearers can do; tracks changes 'straightway', at level of illocution (cf. game score). Common ground: evolving shared attitudes of participants; tracks some important subsequent effects, changes at level of perlocution (cf. attitudes of players, onlookers). These do not compete: we need both. Accommodation works at both levels.

— *Time*. A speech act's force can depend on what happens *later*, because felicity conditions exist later, e.g. uptake of hearers, or their failure to block. Magic? No. Cf. moral luck (Williams); umpire's call.

7. *Accommodating formal authority.* Formal authority can feature as a felicity condition, and as an outcome, of accommodation (often both in same speech act). *As felicity condition:* enacting slave law, naming ships, ordering. Authority's presence enables the speech act, its absence makes it misfire. *As felicitous outcome:* authority itself follows rule of accommodation, gained via e.g. hiring, promotion, and coronation; lost through e.g. firing, demotion, abdication. A speaker's exercise of authority (as felicity condition) can create or destroy authority (as outcome) when certain conditions hold. (Important factors to be set aside: authority as relative to domain, jurisdiction, contrast class.) But what sort of authority?

8. *Practical vs. epistemic authority.* Epistemic authority as, roughly, expertise plus credibility (cf. Fricker). Its credibility component as felicity condition for *verdictives*: e.g. jury's verdict, umpire's call; ranking as inferior. Practical authority, often role-based (king, teacher, parent), as felicity condition for *exercitives*, e.g. naming, sentencing, firing; depriving of powers, rights, authority. Practical authority as felicity condition for *directives*, e.g. ordering, permitting; legitimating discrimination. In first instance, slave law an exercise of practical authority; Nazi propaganda an exercise of epistemic. But practical authority can emerge from epistemic, e.g. credibility of doctor (or quack) enables them to command (cf. Raz). Slave law and Nazi propaganda undermine both epistemic and practical authority of their targets.

9. *Accommodating informal authority.* Informal authority can likewise feature as felicity condition, and as an outcome, of accommodation. Practical and epistemic authority both follow a rule of accommodation, enabling their emergence as a felicitous outcome, achieved when certain conditions hold.

9.1. *Practical authority.* Can be gained or lost informally, e.g. via delegation, or presupposition accommodation. Can be *derived* from acts or omissions of a formally authoritative speaker, e.g. bossy pupil gains practical authority from apparently indifferent teacher; cross burner gains it from apparently indifferent community leaders. Can be *licensed* by non-authoritative hearers and bystanders e.g. traffic director, restaurant planner, subway abuser (Maitra, Thomason). Note: presupposition accommodation for practical authority is *true*, not just acceptable. The pattern for gains can be extended to losses, e.g. the self-undermining surgeon (Fey). The pattern for practical authority can be extended to epistemic.

9.2. *Epistemic authority.* Credibility part can be gained or lost informally, e.g. via delegation or presupposition accommodation. Can be *derived* from acts or omissions of a formally authoritative speaker, e.g. know-it-all pupil gains credibility from indifferent teacher; hate-speaking rumour-monger gaining from indifferent establishment. Can be *licensed* by non-authoritative hearers and bystanders, e.g. 'the guru effect' (Sperber), Brian's disciples (Monty Python), hate-speaker gaining authority from followers. Note: presupposition accommodation for credibility is *true*, not just acceptable. The pattern for gains can be extended to losses, e.g. Greenleaf on women's intuition ('testimonial injustice').

10. *Accommodating authority helps injustice.* Either formally, e.g. slave law, authorized propaganda. Or informally: hate speech could acquire authority, epistemic and practical, via accommodation, and could then subordinate its targets.

11. *Doing things with and without words.* Omissions, failures to block, can be felicity conditions for authority's accommodation. Might an innocent law that merely tolerates hate speech confer derived authority upon it? (Maitra: bossy pupil, indifferent teacher; burning cross, indifferent leaders.) Might silent bystanders to a racist tirade confer 'licensed' authority on its speaker? (Maitra: hike planner, subway abuser). (Important factors to be set aside: responsibility, asymmetries of capacity.) If so, subordinating hate speech could get its force not just from 'low types' doing things with words, but also from those who merely stand by.

Some quotations

Manufacturer's warning: leaky quotes. Offense or worse can sometimes leak through quotation, especially in other contexts. Please dispose of handout carefully.

1. *Brandeis*. To courageous, self-reliant men, with confidence in the power of free and fearless reasoning applied through the processes of popular government, no danger flowing from speech can be deemed clear and present unless the incidence of the evil apprehended is so imminent that it may befall before there is opportunity for full discussion. 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. *Alabama slave code*. Because they are slaves, they are incapable of performing civil acts, and, in reference to all such, they are things, not persons (1861, cited Caterall 1926)

3. *Der Stürmer*. The Jew... silenced the voice of German blood. [...] That is why the *Stürmer* keeps hammering away! That is why its voice keeps saying: 'The Jews are our misfortune!' 'He who eats with the Jews perishes!' 'He who knows the Jew knows the Devil!' [...] The devilish hatred of the Jews plunged the world into war, need and misery. Our holy hate will bring us victory and save all of mankind. (1935, 1943)

4. *Der Giftpilz*. Just as it is often hard to tell a toadstool from an edible mushroom, so too it is often very hard to recognize the Jew as a swindler and a criminal. (Stürmeverlag, 1938).

5. *Letters to Hank Aaron*, poised to break Babe Ruth's record for career home runs, 1973. 'Dear N— Henry, You are [not] going to break this record established by the great Babe Ruth if you can help it... Whites are far more superior than jungle bunnies... My gun is watching your every black move.' (Quoted in Kennedy 2003).

6. They are all *Inyenzi* [cockroaches]. When our armed forces will get there, they will get what they deserve. They will not spare anyone since everybody turned *Inyenzi*. (Rwanda broadcast 1994, quoted in Tirrell.)

7. State Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form [...] and, to this end [...] shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin. (UN International Convention, 1965)

8. There is a moment of indecision and then someone takes charge, asks for suggestions about restaurants, decides on one, and asks someone to get two cabs while she calls to make reservations. When no one objects to this arrangement, she became the group leader, and obtained a certain authority. She did this by acting as if she had the authority; and the presence of a rule saying that those without authority should not assume it is shown by the fact that assuming authority involved a certain risk. Someone could have objected, saying *Who do you think you are, deciding where to go for us?* And the objection would have had a certain force. (Thomason, 1990)

9. Contrary to what I believed as a little girl, being the boss almost never involves marching around, waving your arms, and chanting 'I am the boss! I am the boss!' (Fey, 2011)

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