

What Women Are For: Pornography and Social Ontology¹

I. Introduction

My aim in this paper is to introduce the idea of analyzing the harms of pornography in terms of social ontology, and to recommend this approach as a fruitful avenue for future research. I focus on two claims made by Catharine MacKinnon that have often been viewed as puzzling: (1) pornography subordinates women (the subordination claim), and (2) pornography constructs women's natures in a way that is somehow defective (the constructionist claim). These claims are typically treated separately, and have most often been explored in terms of speech act theory, especially that of J. L. Austin. By contrast, I offer a unified analysis of both claims that draws upon John Searle's account of social ontology.

The paper proceeds as follows. In section II, I set out the subordination and constructionist claims, together with some brief background on MacKinnon's anti-pornography work. In section III, I explain Searle's account of social ontology. In section IV, I use this ontology to construct an argument for the subordination and constructionist claims. In section V, I develop modified versions of these claims that are, I argue, more plausible than the originals. Finally, in section VI, I explore some issues concerning the way the claims are characterized.

II. The Subordination and Constructionist Claims

The subordination and constructionist claims are made by Catharine MacKinnon in a body of work leading up to and surrounding the Antipornography Civil Rights Ordinance, jointly authored by MacKinnon and Andrea Dworkin, which aimed to make pornography actionable

¹ I would like to thank Beatrice Balfour, Lorna Finlayson, Mari Mikkola and Jennifer Saul for insightful and constructive comments on versions of this chapter. I am also indebted to the audience of the conference on 'Feminist Philosophy and Pornography' held at Humboldt University, Berlin, in September 2013.

as a civil rights violation. Under the ordinance, people harmed by pornography would have been able to bring a civil suit against the producers and distributors of the pornography (Dworkin 1981; 2006; MacKinnon 1989; 1996; MacKinnon and Dworkin 1988). The ordinance was passed in 1984 in Indianapolis, but was later struck down on First Amendment grounds.

In the ordinance and in other work, MacKinnon defines pornography in a distinctive way, as '[T]he graphic, sexually explicit subordination of women in pictures or words' (MacKinnon and Dworkin 1988).² On this definition, graphic sexually explicit material that does not subordinate women would not constitute pornography. This is clearly a departure from ordinary use of the term, although MacKinnon seems to think that the vast majority of pornography in the colloquial sense also constitutes pornography in her specialist sense. This definition is problematic for my purposes, however: I am aiming in part to assess the claim that pornography *does* subordinate women, and this claim would be rendered tautological if pornography were defined as that which subordinates. I also believe that MacKinnon's definition of pornography is so far removed from standard usage of the term as to be unhelpful and confusing in most ordinary contexts. For these reasons, I will adopt Mari Mikkola's artefactual definition of pornography (this volume, ch.?). According to this definition,

some x is of the kind 'pornographic artefact' only if it is the product of a largely successful intention to create pornography, where the maker intends that the artefact is an instance of pornography only if their substantive concept of the nature of pornography largely matches the concept held by some prior pornographers, and the maker intends to realise that concept by imposing pornography-relevant features on the object. (page number)

Mikkola's definition treats pornography as a deliberately produced social artefact, thereby keeping us in close contact both with the material reality of pornography as it currently

² The definition also requires that the material instantiate one of a list of features that I shall not detail here.

exists and with ordinary users of language. Drawing on Helen Longino's (1995) characterisation of pornography, I will further understand 'misogynistic pornography' as pornography (in the above sense) that represents the abuse or degradation of women in such a way as to endorse, condone, or encourage it. For the purposes of this paper I will interpret MacKinnon's arguments as concerning misogynistic pornography, which I will abbreviate to m-pornography.³ Accordingly, the arguments considered in this paper will be more interesting and urgent if one thinks that m-pornography makes up a substantial proportion of pornography as such, though I will not undertake to show that it does.⁴

MacKinnon argues that m-pornography subordinates women and that it constructs women's nature in a way that is, in some sense, *wrong*.⁵ Call the claim that m-pornography subordinates women the *subordination claim*. I take it that to subordinate some group is to rank that group as inferior and/or to mark them as legitimate targets for discriminatory disadvantages (including violence). The subordination claim can be found in MacKinnon's writing in two forms. In one form, the claim is that m-pornography causes people who watch it to behave in ways that are subordinating to women, for example by causing them to commit acts of sexual violence against women (1989, 196). In its other form, the claim is rather that subordinating women is what pornography *itself* 'does', not simply what it encourages other people to do (MacKinnon 1996, 29-31; see also her definition of pornography cited above). The second version, the claim that pornography itself subordinates, has been seen as conceptually puzzling (Dworkin 1993; 1995), and hence as standing in need of philosophical explanation before its veracity can be assessed (for such an explanation, see Langton 1993). It is this second form of the subordination claim that will concern me in the discussion that follows. The distinction between the two forms of the subordination claim is typically glossed as a distinction between a 'causal' and a 'constitutive' claim; however, I have reservations about this characterization of the contrast

³ My arguments about the harms of m-pornography are compatible with the claim that some other forms of pornography have positive implications.

⁴ For some evidence that suggests that it does, see Bridges et al. (2010); Dines (2011).

⁵ She also argues that m-pornography silences women, and this claim has also been interpreted in terms of speech acts, but I do not discuss this element of her arguments. See, for example, Langton (1993); Langton and Hornsby (1998).

between the two claims, to be discussed in section VI, and so will not be using these terms in the analysis that follows.

The *constructionist claim*, which has received considerably less philosophical attention than the subordination claim, is the claim that m-pornography constructs women's natures in a way that is, in some sense, wrong. The constructionist claim has two parts. The first part asserts that m-pornography constructs women's natures. As MacKinnon puts it,

Pornography makes the world a pornographic place through its making and use, establishing what women are said to exist as, are seen as, are treated as, constructing the social reality of what a woman is and can be in terms of what can be done to her, and what a man is in terms of doing it. (1996, 25)

The second part asserts that the way that pornography constructs women's natures is somehow defective or wrong. At times, MacKinnon appears to suggest that the construction is actually false, a 'lie' (MacKinnon 1987, 154). This, however, seems to conflict with the idea that m-pornography is successful in constructing women's natures, placing the second part of the constructionist claim in tension with the first. As Mary Kate McGowan notes, then, a plausible reading of the constructionist claim will not interpret the wrongness in question as straightforward falsity, but will instead offer some account of the way in which this construction is defective in a manner that is *akin* to falsity (2005, 34).

We therefore have two questions that need answering. First, concerning the subordination claim: What exactly does it mean to say that women are subordinated by m-pornography itself, rather than by people acting under the influence of m-pornography? Second, concerning the constructionist claim: What exactly does it mean to say that pornography succeeds in constructing women, but that it does so in a defective way? Approaching these questions via social ontology, as I shall be doing, is in contrast to the substantial body of work that explores the same questions using speech act theory. I shall have little to say about this body of work, for the simple reason that the appeal of my own analysis does not depend on the rejection of speech act analyses. Rather, I take as my point of departure the observation that the strategy of analysing the harm of m-pornography in terms of speech acts owes much to the specific context in which it was developed, namely the wake of the

striking down of the Indianapolis Ordinance on grounds of free speech. In legal debates about the Ordinance, m-pornography was framed as speech, and hence as protected by the First Amendment of the US constitution even if it caused harm. The aim of showing that m-pornography can constitute harm *as* speech, thus violating civil rights and forfeiting its constitutional protection, was crucial in motivating speech act analyses of the subordination and constructionist claims. However, passing the Ordinance is no longer a live project, and the debate surrounding it was always extremely US-centric. Stepping away from the details of US law and acknowledging that the advent of internet pornography has significantly changed the context of the debate opens up space for pursuing alternative analyses that are less closely geared around free speech considerations.

III. Searle's Account of Social Ontology

Having set out the subordination and constructionist claims, I will now introduce the social ontology upon which I will draw in interpreting them. In *The Construction of Social Reality*, John Searle offers an account of the ontology of social entities, that is, of entities that cannot be explained merely by referring to their intrinsic physical properties (Searle 1996).⁶ Examples of social entities include money, courts of law, and husbands. That a piece of paper is money, or that a room full of people is a court of law, or that a person is a husband, are facts about these entities. However, unlike some facts, such as the fact that hydrogen atoms have one electron, or that Mount Everest has snow and ice at the top, they are not true simply in virtue of the physical features of the objects in question. Specifically, the examples given above – money, courts of law, and husbands – belong to a particular kind of social reality that Searle calls *institutional* reality. In what follows, I explain Searle's theory of social reality with reference to institutional reality in particular.

Human beings, and some animals, can impose functions on objects. Searle takes pains to stress that 'functions are never intrinsic to the physics of any phenomenon but are assigned

⁶ Searle actually talks about social 'objects', but I want to avoid confusion concerning 'objectification' as discussed in relation to m-pornography and so will be using 'entities' instead.

from outside by conscious observers and users.’ (1996, 14) Whenever we impose a function on an entity that refers to some use to which we wish to put it, we are assigning what Searle calls an *agentive function*: for instance, hammers are for hammering things with, screwdrivers are for screwing and unscrewing screws with, and bathtubs are for taking baths in. When we collectively impose agentive functions on objects through shared representational mental states, or *intentional* states, we construct social entities. This shared intentional state is termed ‘collective intentionality’. Through this collective intentionality, lumps of metal become hammers, enamelled concavities become bathtubs, and pieces of paper become money.

Turning to the specific type of social reality that Searle calls institutional reality, we can note that hammers, screwdrivers and bathtubs are suited for fulfilling their respective functions in virtue of their physical properties, such as their shape. There are, however, some other objects on which agentive functions are imposed that cannot fulfil their purpose simply in virtue of their physical properties. For instance, money is for paying for things with – it is a medium of exchange; but the physical constitution of money (whether paper bills or electromagnetic markings) is not sufficient to explain how it is able to perform this function. Rather, money is able to function as a medium of exchange only in virtue of our collectively recognizing it as such. If we all stopped thinking about money as a medium of exchange, it would no longer be possible for me to use a ten pound note to pay for my shopping, however hard I tried. Compare this to screwdrivers: if we all stopped thinking of screwdrivers as implements for screwing and unscrewing screws, it would still be possible for someone to pick up a screwdriver and successfully use it for that purpose if they had a mind to do so.

Searle terms the social entities that are constructed in this manner ‘institutional entities’, because it is only within the context of human institutions that they are able to perform their functions. He calls the special kind of function involved in constructing institutional entities a ‘status function’, because the entity fulfils its function in virtue of being recognised as having a certain status. This status can be articulated through a ‘counts as’ formula. For instance, the status function of sterling money can be articulated: <pieces of paper with

certain special features and histories [these could be specified, given sufficient space] *count as* a medium of exchange in the United Kingdom>. More generally, status functions typically take the form, <Entities of type X *count as* Y in context C>.⁷ The X-term names the entity on which the status function is imposed, and the Y term gives the content of that status function. It is worth noting that status functions can be imposed on entities, which are already institutional entities. For instance, <saying certain words in front of the celebrant (X-term) *counts as* getting married (Y-term) *in* the UK (context)>; obviously, celebrants are institutional entities too. So in looking for the X-term, we need not be looking for a brute physical entity. The context, the C-term, is sometimes very apparent, as is the case with financial currencies and state borders, but sometimes it is hard to say precisely what the relevant context is, either because its borders are not clearly defined or because it is very pervasive and so appears to apply universally. In such a case, and pending further investigation, we can fill in C with a placeholder such as ‘around here’. Institutional entities come into being when enough people recognise that <entities of type X count as Y in context C>. This collective recognition involves the representation of Xs *as being* Y.

According to Searle, then, institutional entities are created by *the imposition of status functions through collective intentionality*, where status functions take the form <X counts as Y in C>.

IV. Institutional Reality, Subordination and Construction

In this section, I will show how Searle’s account of institutional reality can illuminate the subordination and constructionist claims. In order to do this I must begin by drawing attention to MacKinnon’s account of gender. MacKinnon understands gender as a product of social relations, not a brute physical fact – in other words, she claims that our existence *as* men and women is not determined by the physical configuration of our bodies, but

⁷ Searle (1996) gives this as the template of a status function; however, Searle (2010) offers a more basic formulation that allows for free-standing status-functions (where the Y-term is not imposed on a prior object). Since the case I will be considering does include an X-term, I use the original status function formulation. The use of angle brackets to identify status functions is my own convention, not Searle’s.

depends on human activity and attitudes (1989). This suggests that women and men are institutional entities in the sense defined by Searle. Applying Searle's social ontology to this broad view of gender implies that the existence of women depends on there being collective intentional recognition of some status function that is imposed on some more basic entity (the same goes for a man, but I will focus on women here). Recall the form of this imposition: <X counts as Y in context C>. To understand what defines women as institutional entities, we must identify the relevant status function. In order to do this, we will need to locate both the X-term – the entity onto which the status function is imposed – and the Y-term – the function that is being attributed to that entity.

Now let us call to mind some key features of MacKinnon's assessment of the *content* of m-pornography. MacKinnon argues that m-pornography represents women as lacking in human worth, dignity, and subjectivity; as beings whose pain is unimportant, who have no desires of their own; as objects, in other words, whose sole reason for existing is to be used sexually by men (MacKinnon 1989, 211-2). In this sense, m-pornography can be said to have a very definite idea of *what women are for*, which is signified through language as well as through visual depictions and actions. M-pornography, according to MacKinnon, represents women as *objects for male sexual use*. This is where the idea of construction comes in; consider, for example, MacKinnon's assertion that, '[p]ornography *constructs* women and sex, defines what 'woman' means and what sexuality is, in terms of each other' (MacKinnon 1987, 161, italics in original). The claim here, I believe, is that m-pornographic representations of women as existing for the sexual use of men are what determines (or 'defines') women's social reality.

My proposal is that Searle's account of status functions offers a helpful way of understanding how this relationship between m-pornography and women's social reality is supposed to work. Searle stresses that impositions of status functions are always accomplished through representation: the X term is represented as *being for* the function specified by the Y term, and this is crucial for maintaining the collective intentionality that imposes the status function. When MacKinnon talks of 'the power of pornography to create women in its image of their use' (MacKinnon 1989, 212), I propose that we think of this as

the claim that m-pornography has the power to generate collective-intentional recognition of a status function that defines certain people as *being for* the sexual use of men – thereby making them into women. This is to say that the Y-term in the status function that defines women (as institutional entities) is to be understood as 'object for male sexual use'.

What, though, of the X-term? In other words, which people are so defined? No direct answer to this question is to be found in MacKinnon's work, and I suspect that the X-term is likely to be specified quite differently in different contexts. One very dominant way of approaching the issue takes a person's gender to be determined by what is colloquially termed their "biological sex" – their genitals, karyotype, hormonal balance and so on (Bettcher 2013, cf. Haslanger 2012b).⁸ Some empirical research supports this view; for example, Kessler and McKenna's (1978) research suggests that genital endowment is particularly decisive when people make attributions of gender (see also Bettcher 2007). Given the emphasis within pornography on bodies, it seems likely that this will also be a prevalent way of treating gender in pornography.⁹ Although the emphasis on different bodily features will vary in different contexts, capturing this dominant view of gender would mean defining the X term as something like the following: 'an adult person with most of the following bodily features: [a vagina, a uterus, ovaries, breasts, XX chromosomes, etc.]'. I will use "female" (with scare quotes) as shorthand for a person with these features, although it should be stressed that this is merely a convenient abbreviation, and in using it I do not intend to commit myself to the existence of biological sex categories that are ontologically prior to gender.¹⁰

This approach to defining the X-term suggests a conception of gender that struggles to properly accommodate trans people within the appropriate gender categories. The reason for this is that I am basing the definition on currently dominant social practices for using

⁸ The notion of "biological sex" is of course contested (Fausto-Sterling 2000).

⁹ An obvious exception is some explicitly trans-positive pornography. However, 'mainstream' pornography often takes an extremely fetishizing approach to trans people, most commonly to trans women, which does not respect their gender identities (possibly cite Talia Bettcher's paper in this volume?).

¹⁰ Though note that given that the X-term can itself be an institutional or a social entity, the Searlean model would permit us to appeal to sex in explaining our social understandings of gender even if sex is itself socially constructed.

these categories, within our cissexist/transphobic society.¹¹ Let me stress that in identifying the X-term in this way I am seeking simply to describe what I perceive as a very dominant social conception of gender (and one that we are particularly likely to find in m-pornography). I wish to make it completely clear that I am in no way endorsing this conception of gender: it is deeply harmful and seriously unjust. Moreover, I believe that its grip is loosening, and I would be very happy to be shown that it is less prevalent than I believe it to be. However, its current dominance makes this conception relevant here.

My suggestion, then, is that, drawing on Searle, we can read MacKinnon as claiming that *m-pornography determines the status function that defines women as institutional entities*, and that this status function is something like <"females" count as objects for male sexual use [around here]>.

The next task is to show precisely how this interpretation of MacKinnon grounds the subordination and constructionist claims. If women are institutional entities defined by the status function, <"females" count as objects for male sexual use around here>, then we can argue for the subordination and constructionist claims by way of the following steps.

- (1) Institutional entities are constructed through the collective intentional recognition of status functions.
- (2) Gendered individuals (e.g. women and men) are institutional entities.
- (3) The representation of women in m-pornography generates collective intentional recognition of the status function that defines women as institutional entities thus: <"females" count as objects for male use around here>.
- (4) (From 1-3) M-pornography constructs women as objects for male sexual use.

This is the core of the argument for both the subordination and constructionist claims. In order to get from (4) to the subordination claim, we can add:

- (5) When a person is constructed as an object for the use of others they are thereby subordinated.

¹¹ See Bettcher (2007, 2009, 2013) for useful discussion of dominant ways of thinking about gender as they relate to trans identities.

(6) (From 4, 5) Subordination claim: M-pornography subordinates women.

The claim made in (6) is the second version of the subordination claim, i.e. the claim that pornography *itself* subordinates women, without being mediated by people's actions.¹² We now have a more detailed grasp on what this means: pornography, it is claimed, subordinates women by bringing into being an institutional reality in which they count as objects for male sexual use.

Turning to the constructionist claim, (4) establishes the first element of the claim, which is the assertion that m-pornography constructs women's natures via the collective intentional imposition of a status function. What about the second element, the assertion that this construction is wrong or defective? As previously established, the challenge with the constructionist claim is to spell out a way in which the construction is wrong or defective that is compatible with the claim that the construction is successful (i.e. that m-pornography really does *construct* women rather than just *misrepresent* them).

There are (at least) two ways in which this second part of the constructionist claim could be understood. The first emerges from MacKinnon's work, particularly her discussion of the feminist technique of consciousness raising. This is the idea that we can criticize the subordinating status function based on an affirmation by women of our own humanity. This approach does not claim a particular epistemic privilege for women's experience, in any objective sense; rather, the claim is that a feminist consciousness is one that carries out an act of resistance in rejecting dominant (i.e. male-centred) perspectives. Faced with an institutional reality that reduces women to objects for the sexual use of men, we simply insist on a *different* institutional reality, one in which women are accorded full personhood. This is to say that we collectively refuse to accept the subordinating status function, and, in doing so, we begin to weaken the grip of that institutional reality. As MacKinnon writes, 'The point [of consciousness raising] was, and is, that this process moved the reference point for truth and thereby the definition of reality as such.' (1989, 87) On this interpretation of the

¹² Recall from p. ? above that I am refraining from using the terminology of 'causal' and 'constitutive'; this will be discussed further in section VI below.

constructionist claim, describing the dominant misogynistic construction of women as ‘wrong’ or even ‘false’ is simply an expression of our collective refusal to accept it, our insistence on crafting a different social reality.

The second way of framing a critique of the subordinating status function is by means of what Sally Haslanger has called a ‘debunking’ move (Haslanger 2012a). Taking this approach, we can say that the ‘wrongness’ of the construction consists in the fact that the status of women as objects for male sexual use is presented as a brute fact, when in fact it is an institutional fact. In other words, women are falsely viewed as *naturally subordinate*, when in fact what is happening is that we are *being subordinated* through the operations of social institutions. Correctly recognizing the institutional reality of women’s situation for what it is – a social construction maintained through male power – alerts one to this wrongness.

Both of these interpretations show how the construction of women as objects for male sexual use is, in an important sense, *wrong*, despite being successful. For the purposes of this argument only *one* of the two interpretations need be accepted, since either is sufficient to uphold the constructionist claim. It is worth noting, however, that the two interpretations are compatible with one another: in describing the misogynistic construction of women as objects for male sexual use as ‘wrong’, we can intend both to express our rejection of that construction, *and* to assert that it is not natural in the way it presents itself as being.

A social ontological interpretation of the subordination and constructionist claims thus answers both the question of how m-pornography can subordinate women directly (rather than via the actions of people influenced by it) and the question of how m-pornography’s construction of women can be both successful and wrong.

V. Defending the Claims

The argument set out in the previous section offers a way of understanding the subordination and constructionist claims that renders them perfectly intelligible. What,

though, of their plausibility? In the previous section, I gave a rather rough-and-ready formulation of the status function that MacKinnon takes to define women's social reality, namely: <"females" count as objects for male sexual use around here>. I now want to re-examine this in more detail. Formulating the status function as I did implies (a) that the mode of use relevant to women's oppression is a purely sexual one, and (b) that women are fully reduced to object status in society. There is a difficult exegetical question here: as I shall show, although MacKinnon does at times appear to endorse this strong version of the status function, there are also moments in her writing that would tell in favour of a more subtle formulation. However, my main aim here is not to settle the exegetical issue but to show that the subordination and constructionist claims are more plausible if (a) and (b) are rejected.

Let us begin with (a) – the claim that the mode of use that is relevant to women's oppression is a purely sexual one. It is not clear to what extent MacKinnon is committed to this claim. She undoubtedly believes that sexual subordination is crucial to women's oppression. For example, together with Andrea Dworkin, she states that '[women's] social definition as inferior is a sexual one' (MacKinnon and Dworkin 1988). It is somewhat harder to establish whether she thinks that women's subordination can be *wholly* explained in terms of sexual use. There are certainly moments in her writing where she seems to allow that other modes of use are also significant (1989, 93-94). Whatever MacKinnon's own view may be, however, many feminists have argued that men derive various different advantages from gendered social arrangements. Moreover, each of these advantages can be cast in terms of the social function of women. In being socially pressured to perform unequal amounts of unpaid and low-paid domestic and caring labour both within and outside of the home, for example, women can be said to have been socially conceived of as beings whose function is to support men's comfort and economic advantage (Delphy 1984; Dalla Costa and James 1973; Saul 2006). When the caring labour in question is for children, and when this is coupled with the systematic denial of women's right to control our reproductive capabilities, we can also consider women as serving a reproductive function for men. Insofar as women are socialized to offer men a disproportional amount of emotional care (or even

to function as an ‘Other’ in contrast to which a man can define his ‘Self’) it might also be the case that women serve a *psychological* function for men (Beauvoir 2011; Jónasdóttir 1994; Firestone 1971). Now, I cannot here consider these feminist arguments in any detail; but the point I wish to make is that it seems simplistic to insist that women’s oppression can be explained solely in terms of one kind of use when women have been shown to perform so many important functions for men.¹³

I now turn to (b), the claim that women are fully reduced to object status in society. The notion of objectification undoubtedly plays a very central role in MacKinnon’s work (see, for example, MacKinnon 1989, especially ch. 6). It does not follow from this, however, that women’s institutional position is best understood as literally being that of an object. In the cases of some of the modes of use highlighted above, we may question whether the functions that women are meant to serve for men are aptly captured by the idea of women being reduced to ‘objects’. In some cases it seems like women have to be precisely *more* than objects in order to fulfil the function: for example, reproductive use requires that women undertake the complex task of raising children; emotional or psychological use requires that women show concern and other human emotions. A useful notion here is Charles Mills’ (1999) concept of a ‘subperson’. To be a subperson is to be socially designated as less than a full person in a moral sense. This is to say that whilst a subperson may be acknowledged to have some distinctively human capacities (usually ones that allow them to be useful in certain ways), they are not accorded the full *moral* status associated with personhood. Mills develops the idea of subpersonhood specifically in connection with racial oppression. It is not my intention to imply that racial subpersonhood can be directly equated with gendered subpersonhood; indeed, I am sure that there are a number of important differences, and I further anticipate that there is much to be learned from considering the intersection of race and gender in this regard. I merely want to suggest that the idea of a subperson nicely brings across the idea of women being socially constructed as less than full persons, in a moral sense, without necessarily being absolutely reduced to

¹³ One thing of which we can be confident, however, is that all of these modes of use are heavily inflected by the intersections of, among other factors, class- and race-based oppressions, including relations of oppression and exploitation between women.

object-status. Of course, we can say that in general women are constructed as subpersons without denying that women are at times treated literally like objects.

The rejection of (a) and (b) suggests that the status function that defines women as institutional entities is best conceived of as follows: <“females” count as *subpersons* for male *use* [around here]>. There is, however, a further modification that I wish to make to the argument presented in the previous section. This concerns the role played by m-pornography in generating the collective-intentional acceptance of this status function. Does m-pornography generate acceptance of this status function by itself, or does it operate in conjunction with other forms of misogynistic representation? This is, in essence, an issue of the scope of the subordination and constructionist claims: do they apply to m-pornography alone (narrow scope), or to other forms of material as well (wide scope)?

Again, MacKinnon’s own views on this point are rather difficult to establish, but I believe that there are compelling reasons to interpret the subordination and constructionist claims as wide rather than narrow in scope. For one thing, if women’s subordinate social status is not defined solely by sexual use, but by other forms of use too, then representations of women as subpersons or objects being used in non-sexual ways are surely also relevant. Moreover, even within the sexual context, I cannot see any reason why m-pornography, and m-pornography alone, would be thought to generate collective-intentional acceptance of the subordinating status function. Plenty of non-pornographic representations – many romance novels aimed at women and girls, for example – also approvingly depict women as lacking in sexual agency, as having a sexuality that consists only of a desire to please men, and as appropriate targets of non-consensual sexual violence. It seems arbitrary to suppose that only *sexually graphic* misogynistic depictions of women as being for male sexual use have the power to feed into institutional reality.

The interpretation of the subordination and constructionist claims that I favour, therefore, is one that charges m-pornography *in conjunction with other misogynistic representations* with defining the social reality of women by generating collective-intentional acceptance of the status function, “‘females’ count as *subpersons* for male *use* [around here]’. Although this

interpretation may not be compatible with MacKinnon's own views, I contend that it is the most plausible one, all things considered.

This brings me to a re-statement of the argument set out in the previous section, aimed at the modified claims.

1. Institutional entities are constructed through the collective intentional recognition of status functions.
2. Gendered individuals (e.g. women and men) are institutional entities.
3. The representation of women in m-pornography contributes substantially to the collective intentional recognition of the status function that defines women as institutional entities thus: <"females" count as subpersons for male use around here>.
4. (From 1-3) M-pornography, in conjunction with other misogynistic representations, constructs women as subpersons for male use.
5. When a person is constructed as a subperson for the use of others they are thereby subordinated.
6. (From 4, 5) M-pornography, in conjunction with other misogynistic representations, subordinates women.

The account of the wrongness of the construction (which completes the constructionist claim) remains the same as in the previous version of the argument.

I believe that the modified subordination and constructionist claims, as analyzed here, are not only intelligible but also plausible. Offering a full defense of them is, of course, a task for another day, and I suggest one well worth undertaking.

VI. Constitution and Causation

In this final section, I wish to return briefly to the issue of how the two versions of the subordination claim introduced in Section I are to be understood. To recap, the first version

concerns the effect pornography has on people's actions, and the second version concerns what pornography itself does. It is, of course, the second version with which I have been concerned in this paper. The standard interpretation of the distinction between the first and second versions of the claims is to distinguish between a causal claim, on the one hand, and a constitutive claim on the other. On this view, the causal claim is that pornography causes people to behave towards women in ways that subordinate them, and the constitutive claim is that pornography itself constitutes the subordination of women. How, then, does the analysis developed in this paper fit with this characterization of the distinction? Does the argument I have offered show that m-pornography constitutes the subordination of women?

Some support for reading the argument I have given as yielding a constitutive claim can be drawn from Searle's remarks concerning the role of representations in maintaining institutional reality. Searle claims that the institutional entities are often created through a particular kind of speech act, called a Status Function Declaration, whereby an X is represented as Y in such a way as to generate collective recognition of the status function <X counts as Y (in C)>. ¹⁴ Status Function Declarations have what is called 'a double direction of fit': they both represent the world and change the world (by creating new institutional facts). An example of a Status Function Declaration is the creation of a country through the signing of a constitution. Sometimes Status Function Declarations take the form of standing rules, such as when the law states that any two individuals who go through a certain ceremony and meet certain conditions count as being a married couple. In some cases, however, no explicit Status Function Declaration is ever made, but instead Xs are simply represented as if they already are Y. These representations have the same double direction of fit as do Status Function Declarations (Searle 2010, 13). Interestingly, on-going

¹⁴ This fits with MacKinnon's claim that 'Together with all its material supports, authoritatively *saying* someone is inferior is largely how structures of status and differential treatment are demarcated and actualized.' (1996, 31, italics in original). It also provides an interesting point of contact with speech act theoretic interpretations of the subordination and constructionist claims (see especially McGowan 2005).

representations of this kind are necessary even if an initial Status Function Declaration did occur:

[T]he continued existence of status functions requires representations that work like S[tatus] F[unction] Declarations. Why? The institution and the institutional facts within the institution require continued recognition or acceptance because they exist only as long as they are so recognized or accepted. One mark of recognition or acceptance is continued usage of the institution and institutional facts, and this requires the usage of the corresponding vocabulary. (Searle 2010, 103)

In other words, the institutional reality will only endure for as long as it is recognised, and representations play a crucial role in supporting this recognition. The key point here is that these representations ‘work like SF Declarations’, where SF Declarations bring institutional reality into existence. Now, it seems plausible to say that bringing into existence an institutional reality in which Xs count for less *constitutes* the subordination of Xs. Can we then say that the representations that maintain this institutional reality also constitute subordination?

There are a few potential problems with this. First, there seems to be something a little odd about saying that a certain representation constitutes subordination when that subordination was already in place prior to the creation of that representation. However, this seems to be a problem that will arise for *any* attempt to uphold a constitutive subordination claim, since it seems deeply implausible to suppose that women were not subordinated before the advent of m-pornography. Relatedly, there might be a problem with saying that *m-pornography* constitutes subordination whilst allowing many other forms of representation do so as well – since this seems to suggest that women would be subordinated (in virtue of other representations) even if there were no m-pornography at all. If this is so, then it might turn out that the original version of the subordination claim is constitutive, but the modified version put forward in section IV is not.

The second problem is that a representation (or indeed a Status Function Declaration) will not succeed in maintaining (or creating) institutional reality if it does not generate collective recognition. The representation's power to subordinate thus depends on affecting people's attitudes.¹⁵ This invites the question of whether the maintenance of the institutional reality consists in the representation itself, or in the collective recognition on the part of individuals participating in that reality. If the former, then the representation may well be said to constitute institutional reality, given appropriate recognition. If the latter, however, then this starts to look like a causal claim after all: m-pornography *causes* people to adopt a certain attitude of recognition towards a status function, and that collective recognition constitutes an institutional reality within which women are subordinated.

I cannot here settle the question of whether it is the representation or the collective recognition that constitutes institutional reality. The point I wish to make, however, is that *regardless* of the direction in which this question is eventually decided, the claim that m-pornography subordinates women by maintaining an institutional reality in which women count as less than fully human is importantly different from the claim that m-pornography causes people to act towards women in ways that are subordinating. This difference – between the second and first versions of the subordination claim – is important and interesting regardless of whether it can be glossed as a distinction between constituting subordination on the one hand and causing subordination on the other. My thinking on this point is in line with Lorna Finlayson's (2014) contention that the sharpness of the distinction between causal and constitutive subordination has been much exaggerated. She argues that we should understand the distinction in light of the following point:

[B]y identifying porn with subordination (rather than following the more usual practice of identifying it as a cause of subordination), MacKinnon is making a claim about the intimacy, immediacy, and systematicity of the relationship she see between pornography, on the one hand, and violence and discrimination against women, on the other. (784)

¹⁵ There is a parallel here with the role of uptake in speech act interpretations of the subordination and constructionist claims.

The link between m-pornography and subordination that is posited in my social ontological analysis is *much more* intimate, immediate, and systematic than the link suggested by the claim that pornography causes people to behave towards women in ways that are discriminatory (and hence subordinating). I contend that it is *this* difference that matters, not the question of whether the relationship is constitutive or causal.

This move away from emphasizing the constitutive/causal distinction might strike some as unwise. One major reason for placing importance on this distinction has been that some liberals contend that the principle of free speech is so important that a limitation on speech can only be justified if that speech is shown to *constitute* harm (or discrimination), rather than merely to *cause* it (Dworkin 1993; 1995). Committing ourselves to establishing that m-pornography constitutes harm rather than ‘merely’ causes it, however, is not the only response that feminists concerned about m-pornography and harm can make. Alternatively, we can challenge the view that prioritizes the free speech of (mainly) men over the human dignity and equality of women, regardless of whether the subordination and wrongful construction of women is causally or constitutively actualized. The absolute prioritization of free speech is presented by some as a mainstay of liberalism. I do not have space here to assess whether or not this presentation is accurate, but let me say the following. *If* liberalism leaves us with nothing to do in the face of this level of injustice – *if* liberalism’s response to half of the members of society being socially constructed as subpersons for the use of the other half is a regretful shrug (“sorry, nothing to be done - it’s only causal, not constitutive, you see”) – then *so much the worse for liberalism*. On the other hand, if liberalism does *not* require that the harms of m-pornography be shown to be strictly constitutive before anything can be done by the state to ameliorate them, then there is, after all, no real problem if the harms of m-pornography do turn out to be causal after all.¹⁶

¹⁶ Note that I am not saying that remedies would necessarily have to take the form of legal measures aimed at restricting access to misogynist material; indeed, I think that there are practical reasons why this would be the wrong approach to take. My claim is simply that the liberal position under consideration is too quick to rule out entirely the possibility of restrictions on speech that subordinates and constructs.

VII. Conclusion

I have demonstrated that the subordination and constructionist claims about the harms of m-pornography can profitably be understood in terms of the collective intentional imposition of a status function that defines “females” as subpersons for male use. I have advocated a broad interpretation of the subordination and constructionist claims that applies to a range of media besides m-pornography, both sexual and non-sexual. One major attraction of the social ontological analysis developed here is that it brings greater ontological detail to the claims whilst avoiding the need to assert that anything unusual is going on in the case of m-pornography. The process by means of which m-pornography is said to subordinate and wrongly construct women is just one instance of a very general phenomenon, the phenomenon of institutional reality. Furthermore, Searle’s account of institutional reality was developed independently of anti-m-pornography commitments, which means that there is additional argumentative force in showing that it can be used to support anti-m-pornography claims. These factors grant the social ontological analysis considerable appeal as an interpretation of and argument for the subordination and constructionist claims. This argument *may* turn out to yield a version of the subordination claim that is not strictly constitutive. I have argued that, liberal free speech considerations notwithstanding, this is not a problem: if the promise of redress from a liberal state is so easily forfeited, then it was not worth having in the first place.

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