

'Excitable Speech,'

A Politics of
the Performative

Judith Butler

Routledge
New York & London

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order to be? Is our vulnerability to language a consequence of our being constituted within its terms? If we are formed in language, then that formative power precedes and conditions any decision we might make about it, insulting us from the start, as it were, by its prior power.

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The insult, however, assumes its specific proportion in time. To be called a name is one of the first forms of linguistic injury that one learns. But not all name-calling is injurious. Being called a name is also one of the conditions by which a subject is constituted in language; indeed, it is one of the examples Althusser supplies for an understanding of "interpellation."¹ Does the power of language to injure follow from its interpellative power? And how, if at all, does linguistic agency emerge from this scene of enabling vulnerability?

2/ The problem of injurious speech raises the question of which words wound, which representations offend, suggesting that we focus on those parts of language that are uttered, utterable, and explicit. And yet, linguistic injury appears to be the effect not only of the words by which one is addressed but the mode of address itself, a mode—a disposition or conventional bearing—that interpellates and constitutes a subject.

One is not simply fixed by the name that one is called. In being called an injurious name, one is derogated and demeaned. But the name holds out another possibility as well: by being called a name, one is also, paradoxically, given a certain possibility for social existence, initiated into a temporal life of language that exceeds the prior purposes that animate that call. Thus the injurious address may appear to fix or paralyze the one it hails, but it may also produce an unexpected and enabling response. If to be addressed is to be interpellated, then the offensive call runs the risk of inaugurating a subject in speech who comes to use language to counter the offensive call. When the address is injurious, it works its force upon the one it injures. What is this force, and how might we come to understand its faultlines?

J. L. Austin proposed that to know what makes the force of an utterance effective, what establishes its performative character, one

must first locate the utterance within a "total speech situation."² There is, however, no easy way to decide on how best to delimit that totality. An examination of Austin's own view furnishes at least one reason for such difficulty. Austin distinguishes "illocutionary" from "perlocutionary" speech acts: the former are speech acts that, in saying do what they say, and do it in the moment of that saying; the latter are speech acts that produce certain effects as their consequence; by saying something, a certain effect follows. The illocutionary speech act is itself the deed that it effects; the perlocutionary merely leads to certain effects that are not the same as the speech act itself.

Any delimitation of the total speech act in such illocutionary cases would doubtless include an understanding of how certain conventions are invoked at the moment of utterance, whether the person who invokes them is authorized, whether the circumstances of the invocation are right. But how does one go about delimiting the kind of "convention" that illocutionary utterances presume? Such utterances do what they say on the occasion of the saying; they are not only conventional, but in Austin's words, "ritual or ceremonial." As utterances, they work to the extent that they are given in the form of a ritual, that is, repeated in time, and, hence, maintain a sphere of operation that is not restricted to the moment of the utterance itself.³ The illocutionary speech act performs its deed *at the moment* of the utterance, and yet to the extent that the moment is ritualized, it is never merely a single moment. The "moment" in ritual is a condensed historicity: it exceeds itself in past and future directions, an effect of prior and future invocations that constitute and escape the instance of utterance.

Austin's claim, then, that to know the force of the illocution is only possible once the "total situation" of the speech act can be identified is beset by a constitutive difficulty. If the temporality of linguistic convention, considered as ritual, exceeds the instance of its utterance, and that excess is not fully capturable or identifiable (the past and future of the utterance cannot be narrated with any certainty), then it seems that part of what constitutes the "total speech situation" is a failure to achieve a totalized form in any of its given instances.

In this sense, it is not enough to find the appropriate context for the speech act in question, in order to know how best to judge its

effects. The speech situation is thus not a simple sort of context, one that might be defined easily by spatial and temporal boundaries. To be injured by speech is to suffer a loss of context, that is, not to know where you are. Indeed, it may be that what is *unanticipated* about the injurious speech act is what constitutes its injury, the sense of putting its addressee out of control. The capacity to circumscribe the situation of the speech act is jeopardized at the moment of injurious address. To be addressed injuriously is not only to be open to an unknown future, but not to know the time and place of injury, and to suffer the disorientation of one's situation as the effect of such speech. Exposed at the moment of such a shattering is precisely the volatility of one's "place" within the community of speakers; one can be "put in one's place" by such speech, but such a place may be no place.

"Linguistic survival" implies that a certain kind of surviving takes place in language. Indeed, the discourse on hate speech continually makes such references. To claim that language injures or, to cite the phrase used by Richard Delgado and Mari Matsuda, that "words wound" is to combine linguistic and physical vocabularies.⁴ The use of a term such as "wound" suggests that language can act in ways that parallel the infliction of physical pain and injury. Charles R. Lawrence III refers to racist speech as a "verbal assault," underscoring that the effect of racial invective is "like receiving a slap in the face. The injury is instantaneous." (68) Some forms of racial invective also "produce physical symptoms that temporarily disable the victim. . . ." (68) These formulations suggest that linguistic injury acts like physical injury, but the use of the simile suggests that this is, after all, a comparison of unlike things. Consider, though, that the comparison might just as well imply that the two can be compared only metaphorically. Indeed, it appears that there is no language specific to the problem of linguistic injury, which is, as it were, forced to draw its vocabulary from physical injury. In this sense, it appears that the metaphorical connection between physical and linguistic vulnerability is essential to the description of linguistic vulnerability itself. On the one hand, that there appears to be no description that is "proper" to linguistic injury makes it more difficult to identify the specificity of linguistic vulnerability over and against physical vulnerability. On the other hand, that physical meta-

phors seize upon nearly every occasion to describe linguistic injury suggests that this somatic dimension may be important to the understanding of linguistic pain. Certain words or certain forms of address not only operate as threats to one's physical well-being, but there is a strong sense in which the body is alternately sustained and threatened through modes of address.

Language sustains the body not by bringing it into being or feeding it in a literal way; rather, it is by being interpellated within the terms of language that a certain social existence of the body first becomes possible. To understand this, one must imagine an impossible scene, that of a body that has not yet been given social definition, a body that is, strictly speaking, not accessible to us, that nevertheless becomes accessible on the occasion of an address, a call, an interpellation that does not "discover" this body, but constitutes it fundamentally. We may think that to be addressed one must first be recognized, but here the Althusserian reversal of Hegel seems appropriate: the address constitutes a being within the possible circuit of recognition and, accordingly, outside of it, in abjection.

We may think that the situation is more ordinary: certain already constituted bodily subjects happen to be called this or that. But why do the names that the subject is called appear to instill the fear of death and the question of whether or not one will survive? Why should a merely linguistic address produce such a response of fear? Is it not, in part, because the contemporary address recalls and reenacts the formative ones that gave and give existence? Thus, to be addressed is not merely to be recognized for what one already is, but to have the very term conferred by which the recognition of existence becomes possible. One comes to "exist" by virtue of this fundamental dependency on the address of the Other. One "exists" not only by virtue of being recognized, but, in a prior sense, by being *recognizable*.⁵ The terms that facilitate recognition are themselves conventional, the effects and instruments of a social ritual that decide, often through exclusion and violence, the linguistic conditions of survivable subjects.

If language can sustain the body, it can also threaten its existence. Thus, the question of the specific ways that language threatens violence seems bound up with the primary dependency that any speaking

being has by virtue of the interpellative or constitutive address of the Other. In *The Body in Pain*, Elaine Scarry makes the point that the threat of violence is a threat to language, its world-making and sense-making possibility.⁶ Her formulation tends to set violence and language in opposition, as the inverse of each other. What if language has within it its own possibilities for violence and for world-shattering? For Scarry, the body is not only anterior to language, but she argues persuasively that the body's pain is inexpressible in language, that pain shatters language, and that language can counter pain even as it cannot capture it. She shows that the morally imperative endeavor to represent the body in pain is confounded (but not rendered impossible) by the unrepresentability of the pain that it seeks to represent. One of the injurious consequences of torture, in her view, is that the one tortured loses the ability to document in language the event of torture; thus, one of the effects of torture is to efface its own witness. Scarry also shows how certain discursive forms, such as interrogation, aid and abet the process of torture. Here, however, language assists violence, but appears not to wield *its own* violence. This raises the following question: if certain kinds of violence disable language, how do we account for the specific kind of injury that language itself performs?

Toni Morrison refers specifically to "the violence of representation" in the 1993 Nobel Lecture in Literature. "Oppressive language," she writes, "does more than represent violence; it is violence." (16) Morrison offers a parable in which language itself is figured as a "living thing," where this figure is not false or unreal, but indicates something true about language. In the parable, young children play a cruel joke and ask a blind woman to guess whether the bird that is in their hands is living or dead. The blind woman responds by refusing and displacing the question: "I don't know . . . but what I do know is that it is in your hands. It is in your hands." (11)

Morrison then elects to read the woman in the parable as a practiced writer, and the bird, as language, and she conjectures on how this practiced woman writer thinks of language: "she thinks of language partly as a system, partly as a living thing over which one has control, but mostly as agency—as an act with consequences. So the question

that the children put to her, 'Is it living or dead?', is not unreal, because she thinks of language as susceptible to death, erasure. . . ." (13)

Here Morrison writes in a conjectural way what the practiced woman writer conjectures, a speculation both in and about language and its conjectural possibilities. Remaining within a figural frame, Morrison announces the "reality" of that frame from within its own terms. The woman thinks of language as living; Morrison gives us the performance of this act of substitution, this simile by which language is figured as life. The "life" of language is thus exemplified by this very enactment of simile. But what sort of enactment is this?

Language is thought of "mostly as agency—an act with consequences," an extended doing, a performance with effects. This is something short of a definition. Language is, after all, "thought of," that is, posited or constituted as "agency." Yet it is *as* agency that it is thought; a *figural* substitution makes the thinking of the agency of language possible. Because this very formulation is offered *in* language, the "agency" of language is not only the theme of the formulation, but its very action. This positing as well as this figuring appear to exemplify the agency at issue.

We might be tempted to think that attributing agency to language is not quite right, that only subjects do things with language, and that agency has its origins in the subject. But is the agency of language the same as the agency of the subject? Is there a way to distinguish between the two? Morrison not only offers agency as a figure for language, but language as a figure for agency, one whose "reality" is incontestible. She writes: "We die. That may be the meaning of life. But we *do* language. That may be the measure of our lives." (22) She does not state: "language is agency," for that kind of assertion would deprive language of the agency she means to convey. In refusing to answer the children's cruel question, the blind woman, according to Morrison, "shifts attention away from the assertions of power to the instrument through which that power is exercised." (12) Similarly, Morrison refuses to offer dogmatic assertions on what language is, for that would obscure how the "instrument" of that assertion participates in that very being of language; the irreducibility of any assertion to its

instrument is precisely what establishes language as self-divided. The failure of language to rid itself of its own instrumentality or, indeed, rhetoricity, is precisely the inability of language to annul itself in the telling of a tale, in the reference to what exists or in the volatile scenes of interlocution.

Significantly, for Morrison, "agency" is not the same as "control"; neither is it a function of the systematicity of language. It seems that we cannot first give an account of human agency and then specify the kind of agency that humans have in language. "We *do* language. That may be the measure of our lives."

We do things with language, produce effects with language, and we do things to language, but language is also the thing that we do. Language is a name for our doing: both "what" we do (the name for the action that we characteristically perform) and that which we effect, the act and its consequences.

8, In the parable that Morrison offers, the blind woman is analogized to a practiced writer, suggesting that writing is to some extent blind, that it cannot know the hands into which it will fall, how it will be read and used, or the ultimate sources from which it is derived. The scene in the parable is an interlocution, where the children exploit the blindness of the woman in order to force her to make a choice she cannot make, and where the force of that address is what the woman reads, exercising an agency that the address had meant to deny her. She does not make the choice, but calls attention to "the instrument through which power is exercised," establishing that the choice is in the hands of the interlocutors she cannot see. She cannot know, according to Morrison's interpretation, whether language will live or die in the hands of those who use speech with the force of cruelty. In both the parable and in the reading that Morrison provides, the question of responsibility is central, figured as "the hands" of the children or, indeed, those who inherit the responsibility for whether language will live or die. The writer is blind to the future of the language in which she writes. Thus language is thought of "mostly as agency," distinguished from forms of mastery or control, on the one hand, and by the closure of system on the other.

Morrison's analogy suggests that language lives or dies as a living

thing might live or die, and that the question of survival is central to the question of how language is used. She claims that "oppressive language . . . is violence," not merely a representation of it. Oppressive language is not a substitute for the experience of violence. It enacts its own kind of violence. Language remains alive when it refuses to "encapsulate" (20) or "capture" (21) the events and lives it describes. But when it seeks to effect that capture, language not only loses its vitality, but acquires its own violent force, one that Morrison throughout the lecture associates with statist language and censorship. She writes, "the vitality of language lies in its ability to limn the actual, imagined and possible lives of its speakers, readers, writers. Although its poise is sometimes in displacing experience, it is not a substitute for it. It arcs toward the place where meaning may lie." (20) And later: "its force, its felicity, is in its reach toward the ineffable." (21) The violence of language consists in its effort to capture the ineffable and, hence, to destroy it, to seize hold of that which must remain elusive for language to operate as a living thing.

The children's question is cruel not because it is certain that they have killed the bird, but because the use of language to force the choice from the blind woman is itself a seizing hold of language, one whose force is drawn from the conjured destruction of the bird. The hate speech that the children perform seeks to capture the blind woman in the moment of humiliation, but also to transfer the violence done to the bird to the woman herself, a transfer that belongs to the particular temporality of the threat. In a sense, the threat begins the performance of that which it threatens to perform; but in not quite fully performing it, seeks to establish, through language, the certitude of that future in which it will be performed.

Although the threat is not quite the act that it portends, it is still an act, a speech act, one that not only announces the act to come, but registers a certain force in language, a force that both presages and inaugurates a subsequent force. Whereas the threat tends to produce an expectation, the threat of violence destroys the very possibility of expectation: it initiates a temporality in which one expects the destruction of expectation and, hence, cannot expect it at all.

Whereas the threat prefigures the act, it would be a mistake to

conclude that whereas the threat takes place merely in language, the threatened act takes place in a material instance fully beyond language, between and among bodies. Implicit in the notion of a threat is that what is spoken in language may prefigure what the body might do; the act referred to in the threat is the act that one might actually perform. But this view fails to take into account that *speaking is itself a bodily act*.

In Shoshana Felman's book, *The Literary Speech Act: Don Juan with J. L. Austin, or Seduction in Two Languages*⁷, she reminds us that the relation between speech and the body is a scandalous one, "a relation consisting at once of incongruity and of inseparability . . . the scandal consists in the fact that the act cannot know what it is doing." (96) Felman thus suggests that the speech act, as the act of a speaking body, is always to some extent unknowing about what it performs, that it always says something that it does not intend, and that it is not the emblem of mastery or control that it sometimes purports to be. She calls attention to the way in which a speaking body signifies in ways that are not reducible to what such a body "says." In this sense, the speaker is "blind" in much the same way that, for Morrison, the practiced woman writer is "blind": the utterance performs meanings that are not precisely the ones that are stated or, indeed, capable of being stated at all. Whereas Morrison calls attention to the "instrument through which [assertions] are made," Felman identifies that instrument as the body from which speech is uttered. That body becomes a sign of unknowingness precisely because its actions are never fully consciously directed or volitional. For Felman, what remains unconscious in a bodily action such as speech might be construed as the "instrument" through which the assertion is made. Similarly, that unknowing body marks the limit of intentionality in the speech act. The speech act says more, or says differently, than it means to say.

For Felman, however, this does not mean that speech and the body are radically separable, only that the idea of a fully intentional speech act is perpetually subverted by that in speech which subverts intentionality. Felman writes, "If the problem of the human act consists in the relation between language and the body, it is because the act is conceived—by performative analysis as well as by psychoanalysis—as

that which problematizes at one and the same time the separation and opposition between the two. The act, an enigmatic and problematic production of the *speaking body*, destroys from its inception the metaphysical dichotomy between the domain of the 'mental' and the domain of the 'physical,' breaks down the opposition between body and spirit, between matter and language."⁸

For Felman, however, this breakdown of the opposition between matter and language does not entail a simple unity of these terms. They remain incongruously interrelated. In speaking, the act that the body is performing is never fully understood; the body is the blindspot of speech, that which acts in excess of what is said, but which also acts in and through what is said. That the speech act is a bodily act means that the act is redoubled in the moment of speech: there is what is said, and then there is a kind of saying that the bodily "instrument" of the utterance performs.

Thus a statement may be made that, on the basis of a grammatical analysis alone, appears to be no threat. But the threat emerges precisely through the act that the body performs in the speaking the act. Or the threat emerges as the apparent effect of a performative act only to be rendered harmless through the bodily demeanor of the act (any theory of acting knows this). The threat prefigures or, indeed, promises a bodily act, and yet is already a bodily act, thus establishing in its very gesture the contours of the act to come. The act of threat and the threatened act are, of course, distinct, but they are related as a chiasmus. Although not identical, they are both bodily acts: the first act, the threat, only makes sense in terms of the act that it prefigures. The threat begins a temporal horizon within which the organizing aim is the act that is threatened; the threat begins the action by which the fulfillment of the threatened act might be achieved. And yet, a threat can be derailed, defused, can fail to furnish the act that it threatens. The threat states the impending certitude of another, forthcoming act, but the statement itself cannot produce that forthcoming act as one of its necessary effects. This failure to deliver on the threat does not call into question the status of the speech act as a threat—it merely questions its efficacy. The self-conceit that empowers the threat, however,

is that the speech act that is the threat will fully materialize that act threatened by the speech. Such speech is, however, vulnerable to failure, and it is that vulnerability that must be exploited to counter the threat.

For the threat to work, it requires certain kinds of circumstances, and it requires a venue of power by which its performative effects might be materialized. The teleology of action conjured by the threat is disruptible by various kinds of infelicities. Nevertheless, the fantasy of sovereign action that structures the threat is that a certain kind of saying is at once the performance of the act referred to in that saying; this would be an illocutionary performative, in Austin's view, one that immediately does what it says. The threat may well solicit a response, however, that it never anticipated, losing its own sovereign sense of expectation in the face of a resistance it advertently helped to produce. Instead of obliterating the possibility of response, paralyzing the addressee with fear, the threat may well be countered by a different kind of performative act, one that exploits the redoubled action of the threat (what is intentionally and non-intentionally performed in any speaking), to turn one part of that speaking against the other, confounding the performative power of the threat.

Because the threat is a speech act that is at once a bodily act, it is already, in part, out of its own control. Morrison makes this point: the blind woman returns the implicit threat delivered by the children by referring to "the hands" of the one who holds the bird, to expose the body of the one who speaks, to counter the act with an act that exposes what is most unknown to the ones who deliver the threat, illuminating the blindness that motivates their speech act, the question of what they will do, in a bodily sense, given what they have already done, bodily, in speaking as they have.

The notion that speech wounds appears to rely on this inseparable and incongruous relation between body and speech, but also, consequently, between speech and its effects. If the speaker addresses his or her body to the one addressed, then it is not merely the body of the speaker that comes into play: it is the body of the addressee as well. Is the one speaking merely speaking, or is the one speaking comporting her or his body toward the other, exposing the body of the other as

vulnerable to address. As an "instrument" of a violent rhetoricity, the body of the speaker exceeds the words that are spoken, exposing the addressed body as no longer (and not ever fully) in its own control.

UNEXPECTED CALLS

To decide the matter of what is a threat or, indeed, what is a word that wounds, no simple inspection of words will suffice. We may think that an elaboration of the institutional conditions of utterance is necessary to identify the probability that certain kinds of words will wound under such circumstances. But the circumstances alone do not make the words wound. Or we may be compelled to claim that any word can be a word that wounds, that it depends on its deployment, and that the deployment of words is not reducible to the circumstances of their utterance. This last makes sense, but such a view cannot tell us why certain words wound in the way that they do, or why it is more difficult to separate certain words from their power to wound.

Indeed, recent efforts to establish the incontrovertibly wounding power of certain words seem to founder on the question of who does the interpreting of what such words mean and what they perform. The recent regulations governing lesbian and gay self-definition in the military or, indeed, the recent controversies over rap music suggest that no clear consensus is possible on the question of whether there is a clear link between the words that are uttered and their putative power to injure.⁹ To argue, on the one hand, that the offensive effect of such words is fully contextual, and that a shift of context can exacerbate or minimize that offensiveness, is still not to give an account of the power that such words are said to exercise. To claim, on the other hand, that some utterances are always offensive, regardless of context, that they carry their contexts with them in ways that are too difficult to shed, is still not to offer a way to understand how context is invoked and restaged at the moment of utterance.

Neither view can account for the restaging and resignifying of offensive utterance, deployments of linguistic power that seek at once to expose and counter the offensive exercise of speech. I will consider these at greater length in the chapters to come, but consider for a

moment how often such terms are subject to resignification. Such a redoubling of injurious speech takes place not only in rap music and in various forms of political parody and satire, but in the political and social critique of such speech, where "mentioning"¹⁰ those very terms is crucial to the arguments at hand, and even in the legal arguments that make the call for censorship, in which the rhetoric that is deplored is invariably proliferated within the context of legal speech. Paradoxically, the explicit legal and political arguments that seek to tie such speech to certain contexts fail to note that even in their own discourse, such speech has become citational, breaking with the prior contexts of its utterance and acquiring new contexts for which it was not intended. The critical and legal discourse on hate speech is itself a restaging of the performance of hate speech. The present discourse breaks with the prior ones, but not in any absolute sense. On the contrary, the present context and its apparent "break" with the past are themselves legible only in terms of the past from which it breaks. The present context does, however, elaborate a new context for such speech, a future context, not yet delineable and, hence, not yet precisely a context.

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The arguments in favor of a counter-appropriation or restaging of offensive speech are clearly undercut by the position that the offensive effect of the speech act is *necessarily* linked to the speech act, its originating or enduring context or, indeed, its animating intentions or original deployments. The revaluation of terms such as "queer" suggest that speech can be "returned" to its speaker in a different form, that it can be cited against its originary purposes, and perform a reversal of effects. More generally, then, this suggests that the changeable power of such terms marks a kind of discursive performativity that is not a discrete series of speech acts, but a ritual chain of resignifications whose origin and end remain unfixed and unfixable. In this sense, an "act" is not a momentary happening, but a certain nexus of temporal horizons, the condensation of an iterability that exceeds the moment it occasions. The possibility for a speech act to resignify a prior context depends, in part, upon the gap between the originating context or intention by which an utterance is animated and the effects it produces. For the threat, for instance, to have a future it never intended, for it to be returned to its speaker in a different form, and defused through that

return, the meanings the speech act acquires and the effects it performs must exceed those by which it was intended, and the contexts it assumes must not be quite the same as the ones in which it originates (if such an origin is to be found).

Those who seek to fix with certainty the link between certain speech acts and their injurious effects will surely lament the open temporality of the speech act. That no speech act *has* to perform injury as its effect means that no simple elaboration of speech acts will provide a standard by which the injuries of speech might be effectively adjudicated. Such a loosening of the link between act and injury, however, opens up the possibility for a counter-speech, a kind of talking back, that would be foreclosed by the tightening of that link. Thus, the gap that separates the speech act from its future effects has its auspicious implications: it begins a theory of linguistic agency that provides an alternative to the relentless search for legal remedy. The interval between instances of utterance not only makes the repetition and resignification of the utterance possible, but shows how words might, through time, become disjoined from their power to injure and recontextualized in more affirmative modes. I hope to make clear that by affirmative, I mean "opening up the possibility of agency," where agency is not the restoration of a sovereign autonomy in speech, a replication of conventional notions of mastery.

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The main concerns of *Excitable Speech* are both rhetorical and political. In the law, "excitable" utterances are those made under duress, usually confessions that cannot be used in court because they do not reflect the balanced mental state of the utterer. My presumption is that speech is always in some ways out of our control. In a formulation that anticipates Felman's reading of the speech act, Austin writes that "actions in general (not all) are liable, for example, to be done under duress, or by accident, or owing to this or that variety of mistake, say, or otherwise unintentionally" (21) Austin then takes the occasion to delink the speech act from the subject in some instances: "in many such cases we are certainly unwilling to say of some such act simply that it was done or that he did it." (21) Untethering the speech act from the sovereign subject founds an alternative notion of agency and, ultimately, of responsibility, one that more fully acknowledges the way in

which the subject is constituted in language, how what it creates is also what it derives from elsewhere. Whereas some critics mistake the critique of sovereignty for the demolition of agency, I propose that agency begins where sovereignty wanes. The one who acts (who is not the same as the sovereign subject) acts precisely to the extent that he or she is constituted as an actor and, hence, operating within a linguistic field of enabling constraints from the outset.

The sovereign conceit emerges in hate speech discourse in several ways. The one who speaks hate speech is imagined to wield sovereign power, to do what he or she says when it is said. Similarly, the "speech" of the state often takes a sovereign form, whereby the speaking of declarations are, often literally, "acts" of law. The effort to locate such illocutionary instances of speech, however, posed difficulties for Austin, and led him to devise a series of provisos and new distinctions to take account of the complexity of the performative terrain. Not all utterances that have the form of the performative, whether illocutionary or perlocutionary, actually work. This insight has important consequences for the consideration of the putative efficacy of hate speech.

Rhetorically, the assertion that some speech not only communicates hate, but constitutes an injurious act, presumes not only that language acts, but that it acts *upon* its addressee in an injurious way. These are, however, two importantly different claims, and not all speech acts are the kinds of acts that act upon another with such force. For instance, I may well utter a speech act, indeed, one that is illocutionary in Austin's sense, when I say, "I condemn you," but if I am not in a position to have my words considered as binding, then I may well have uttered a speech act, but the act is, in Austin's sense, unhappy or infelicitous: you escape unscathed. Thus, many such speech acts are "conduct" in a narrow sense, but not all of them have the power to produce the effects or initiate a set of consequences; indeed, many of them are quite comic in this regard, and one might read Austin's tract, *How to Do Things with Words*, as an amusing catalogue of such failed performatives.

A speech act can be an act without necessarily being an efficacious act. If I utter a failed performative, that is, I make a command and no

one hears or obeys, I make a vow, and there is no one to whom or before whom the vow might be made, I still perform an act, but I perform an act with no or little effect (or, at least, not with the effect that is figured by the act). A felicitous performative is one in which I not only perform the act, but some set of effects follows from the fact that I perform it. To act linguistically is not necessarily to produce effects, and in this sense, a speech act is not always an efficacious action. To say that there is an equivocation, then, between speech and action is not necessarily to say that speech acts efficaciously.

Austin offers a tentative typology of the kinds of locutions that are performative. The illocutionary act is one in which in saying something, one is at the same time doing something; the judge who says, "I sentence you" does not state an intention to do something or describe what he is doing: his saying is itself a kind of doing. Illocutionary speech acts produce effects. They are supported, Austin tells us, by linguistic and social conventions. Perlocutionary acts, on the other hand, are those utterances that initiate a set of consequences: in a perlocutionary speech act, "saying something will produce certain consequences," but the saying and the consequences produced are temporally distinct; those consequences are not the same as the act of speech, but are, rather, "what we bring about or achieve by saying something" (109). Whereas illocutionary acts proceed by way of conventions (107), perlocutionary acts proceed by way of consequences. Implicit in this distinction is the notion that illocutionary speech acts produce effects without any lapse of time, that the saying is itself the doing, and that they are one another simultaneously.

Austin remarks as well that some consequences of a perlocution may be unintentional, and the example he offers is the unintentional insult, thus locating verbal injury within the orbit of the perlocution. Thus, Austin suggests that injury does not inhere in the conventions that a given speech act invokes, but in the specific consequences that a speech act produces.

Austin's work has been cited recently by legal scholars and philosophers (Catharine MacKinnon, Rae Langton, among others¹¹) in order to argue that pornographic representations are performative, that is,

they do not state a point of view or report on a reality, but constitute a certain kind of conduct. These scholars further claim that the conduct "silences" those who are depicted in a subordinate fashion within pornographic representations.

18, These arguments will be considered at length in subsequent chapters, but for introductory purposes, it is important to note that pornography is construed as a kind of hate speech, and that its performative force is described as illocutionary. Significantly, MacKinnon's argument against pornography has moved from a conceptual reliance on a perlocutionary model to an illocutionary one.¹² In the work of Mari Matsuda, hate speech is understood not only to *act upon* its listener (a perlocutionary scene), but to contribute to the social constitution of the one addressed (and, hence, to become part of a process of social interpellation).¹³ The listener is understood to occupy a social position or to have become synonymous with that position, and social positions themselves are understood to be situated in a static and hierarchical relation to one another. By virtue of the social position he or she occupies, then, the listener is injured as a consequence of that utterance. The utterance also enjoins the subject to reoccupy a subordinate social position. According to this view, such speech reinvokes and reinscribes a structural relation of domination, and constitutes the linguistic occasion for the reconstitution of that structural domination. Although sometimes this view on hate speech enumerates a set of consequences that such speech produces (a perlocutionary view of the matter), there are other formulations of this position where the force of the performative is secured through conventional means (an illocutionary model). In Mari Matsuda's formulation, for instance, speech does not merely *reflect* a relation of social domination; speech *enacts* domination, becoming the vehicle through which that social structure is reinstated. According to this illocutionary model, hate speech *constitutes* its addressee at the moment of its utterance; it does not describe an injury or produce one as a consequence; it is, in the very speaking of such speech, the performance of the injury itself, where the injury is understood as social subordination.¹⁴

What hate speech does, then, is to constitute the subject in a subordinate position. But what gives hate speech the power to constitute the

subject with such efficacy? Is hate speech as felicitous as it appears in this account, or are there faultlines that make its constituting power less felicitous than the above description would imply?

I wish to question for the moment the presumption that hate speech always works, not to minimize the pain that is suffered as a consequence of hate speech, but to leave open the possibility that its failure is the condition of a critical response. If the account of the injury of hate speech forecloses the possibility of a critical response to that injury, the account confirms the totalizing effects of such an injury. Such arguments are often useful in legal contexts, but are counter-productive for the thinking of nonstate-centered forms of agency and resistance.

Even if hate speech works to constitute a subject through discursive means, is that constitution necessarily final and effective? Is there a possibility of disrupting and subverting the effects produced by such speech, a faultline exposed that leads to the undoing of this process of discursive constitution? What kind of power is *attributed* to speech such that speech is figured as having the power to constitute the subject with such success?

19 Matsuda's argument presumes that a social structure is enunciated at the moment of the hateful utterance; hate speech reinvokes the position of dominance, and reconsolidates it at the moment of utterance. As the linguistic rearticulation of social domination, hate speech becomes, for Matsuda, the site for the mechanical and predictable reproduction of power. In some ways, the question of mechanical breakdown or "misfire" and of the unpredictability of speech is precisely what Austin repeatedly emphasizes when he focuses on the various ways in which a speech act can go wrong. More generally, however, there are reasons to question whether a static notion of "social structure" is reduplicated in hate speech, or whether such structures suffer deconstruction through being reiterated, repeated, and rearticulated. Might the speech act of hate speech be understood as less efficacious, more prone to innovation and subversion, if we were to take into account the temporal life of the "structure" it is said to enunciate? If such a structure is dependent upon its enunciation for its continuation, then it is at the site of enunciation that the question of its continuity is to be posed. Can

there be an enunciation that discontinues that structure, or one that subverts that structure through its repetition in speech? As an invocation, hate speech is an act that recalls prior acts, requiring a future repetition to endure. Is there a repetition that might disjoin the speech act from its supporting conventions such that its repetition confounds rather than consolidates its injurious efficacy?

SCENES OF UTTERANCE

It would be a mistake to think that working out the theoretical problems of the speech act will offer a set of clarifying solutions to the contemporary political operation of the speech act. The relation between theory and politics tends to work the other way. Theoretical positions are always appropriated and deployed in political contexts that expose something of the strategic value of such theories. A cursory review of the political instances in which the speech act makes an appearance show that there is significant disagreement on which speech acts, if any, should be viewed as conduct rather than "speech" in the legal sense. Broadly considered arguments in favor of the collapse of the speech/conduct distinction tend to strengthen the case for state regulation and to suspend reference to the first Amendment. Arguments that insist that speech acts are speech rather than conduct, on the other hand, tend to work in favor of suspending state intervention. In Chapter One, "Burning Acts," I note that a majority opinion on the Supreme Court in *R.A.V. v. St. Paul* struck down a local ordinance which would have construed the burning of a cross in the front of a black family's house as "fighting words" and questioned whether that kind of "speech" simply "communicates a message" and expresses "a viewpoint"—even as that "viewpoint" was also held to be "reprehensible."¹⁵ The Court clearly discounted a more recent legal argument that the burning cross is *both* speech and conduct, that is, the communication of a message of inferiority as well as an act of discrimination (in the sense that a sign, "whites only," both expresses an idea and constitutes in itself discriminatory conduct.)

In MacKinnon's recent work, *Only Words*, pornography is construed as both speech and conduct, indeed, as "performative utter-

ance," and is understood not only to "act on" women in injurious ways (a perlocutionary claim), but to constitute, through representation, the class of women as an inferior class (an illocutionary claim). The burning cross is understood to be analogous to the pornographic utterance to the extent that both of them represent and enact an injury. But can the illocutionary claim be made about pornography as easily as it can about the burning cross? The theory of representation and, indeed, the theory of performativity at work differs in each of these cases. I will argue that, taken generically, the visual text of pornography cannot "threaten" or "demean" or "debase" in the same way that the burning cross can. To suggest that both examples instantiate the same kind of verbal conduct is not only a mistake in judgment, but the exploitation of the sign of racial violence for the purposes of enhancing, through a metonymical slippage, the putatively injurious power of pornography.

We have heard recently about speech that "incites" certain kinds of action. The Israeli press devoted much attention to the incendiary rhetoric of the rightwing in Israel and whether that rhetoric could be held responsible for the slaying of Yitzhak Rabin. How is it in such cases that we imagine utterance to have insinuated itself into action: how do we imagine that speech is heard, taken up as motivation, mechanically or contagiously inducing the listener to act? "Pro-life" activists have argued with limited legislative success that terms such as "abortion" that appear on the Internet are themselves "obscenity," and I recently saw an airplane movie in which the word "abortion" was "bleeped" in the course of its utterance. The utterance is understood not merely to offend a set of sensibilities, but to constitute an injury, as if the word performed the act, and the injured party were the defenseless "unborn." The ascription of such magical efficacy to words emerges in the context of the U.S. military in which the declaration that one is a homosexual is understood to communicate something of homosexuality and, hence, to be a homosexual act of some kind.

Significantly, this magical view of the performative does not operate in those political instances in which speech is, as it were, violently separated from conduct. The Court's willingness to treat the burning cross in *R.A.V. v. St. Paul* as potentially protected "speech" suggests that the nonperformative view of speech can be extended to defend

certain kinds of racist conduct, a defense that manipulates the distinction between speech and conduct in order to achieve certain political aims. Similarly, MacKinnon's appeal to the state to construe pornography as performative speech and, hence, as the injurious conduct of representation, does not settle the theoretical question of the relation between representation and conduct, but collapses the distinction in order to enhance the power of state intervention over graphic sexual representation.

22, In many ways, this very extension of state power, however, comes to represent one of the greatest threats to the discursive operation of lesbian and gay politics. Central to such politics are a number of "speech acts" that can be, and have been, construed as offensive and, indeed, injurious conduct: *graphic self-representation*, as in Mapplethorpe's photography; *explicit self-declaration*, such as that which takes place in the practice of coming out; and *explicit sexual education*, as in AIDS education. In these three instances, it is important to note that to represent homosexuality is not exactly the same as performing it, even when the representation has a significantly performative dimension to it. When one declares that one is a homosexual, the declaration is the performative act—not the homosexuality, unless we want to claim that homosexuality is itself nothing but a kind of declaration, which would be an odd move to make. Similarly, it seems crucial and right to argue that to represent sexual practices in AIDS education is not to circulate AIDS nor to incite certain kinds of sexuality (unless we understand the incitation to safe sex as one of the aims of such an education). In a related way, when conservative critics suggest that gangsta rap is responsible for urban crime and the degradation of women, they construe representation not merely as performative, but as causative. In calling for public opposition to gangsta rap, William Bennett and C. Delores Tucker¹⁶ did not seek state intervention against the corporations financing the music, but they did circulate the view that such music (and lyrics) have perlocutionary effects, and they represented representation itself as inducing criminal violence. The collapse of speech and conduct thus works to localize the "cause" of urban violence, and perhaps, as in the Israeli concern with incendiary rhetoric, to silence a discussion of the broader institutional conditions

that produce right-wing violence. In the United States, the turn against the lyrics of gangsta rap may also operate as a deflection from a more fundamental analysis on race, poverty and rage, and how those conditions are graphically registered in urban African-American popular musical genres.¹⁷

Unfortunately, it seems that some appropriations of the hate speech argument tend to minimize the effects of racial injury while expanding the possible field of sexual injury; and in the conservative attack on rap, feminist arguments against injurious representation appear to be tacitly appropriated. New standards of "decency" require that certain urban conditions of violence not be represented. At the same time, sexual injury to women is to be understood through racial tropes: the dignity of women is understood to be under attack not by the weakening of rights to reproductive freedom and the widespread loss of public assistance, but primarily by African-American men who sing.

There are views that subscribe to the efficacious model of the performative in both its illocutionary and perlocutionary forms that are feminist and anti-feminist, racist and anti-racist, homophobic and anti-homophobic. Thus there is no simple way to correlate views on the efficacy of the speech act with political views in general or, more specifically, with a view on the appropriate jurisdiction of the first Amendment. Nevertheless, it seems clear that legal precedents for the curtailment of "speech," broadly construed, are supported by the use of the illocutionary model of hate speech. The firmer the link is made between speech and conduct, however, and the more fully occluded the distinction between felicitous and infelicitous acts, the stronger the grounds for claiming that speech not only produces injury as one of its consequences, but constitutes an injury in itself, thus becoming an unequivocal form of conduct. The collapse of speech into conduct, and the concomitant occlusion of the gap between them, tends to support the case for state intervention, for if "speech" in any of the above cases can be fully subsumed under conduct, then the first Amendment is circumvented. To insist on the gap between speech and conduct, however, is to lend support for the role of nonjuridical forms of opposition, ways of restaging and resignifying speech in contexts that exceed those determined by the courts. Strategies devised on the part of progressive