

Pornography, Social Ontology, and Feminist Philosophy

A response to Mari Mikkola's *Pornography: A Philosophical Introduction*

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Introduction

Mari Mikkola's *Pornography: A Philosophical Introduction* is a rich, thorough, and important book. With great skill and precision, Mikkola maps the conceptual terrain of pornography; summarises and assesses key debates in the existing literature; and contributes her own insights – chiefly, in my view, an appealing artefactual definition of pornography, and a strong case for a methodological commitment to discussing pornography in a way that is grounded in empirical reality. The result is much more than the promised 'introduction': it is a key critical study that will, I am sure, play a major role in shaping future debates on this topic.

I'm going to focus on a brief part of the book where Mikkola offers a critique of a paper of mine (2017) on pornography and social ontology. In short, I think Mikkola's critique is correct, and I'll attempt a re-working of the argument I made in that paper which, I hope, avoids the problems she identifies. Given the richness of the book, this focus on Mikkola's response to my own work is probably somewhat selfish. However, I hope to mitigate this selfishness by using the discussion to highlight some broader points about the relationship between feminist philosophy and pornography – points which, although they are primarily prompted by my own experience, I hope may resonate with others.

Pornography and Social Ontology

In my 2017 paper "What Women Are For": Pornography and Social Ontology', I offered a way of sympathetically interpreting two claims made about pornography by Catharine MacKinnon (1987; 1996):

The subordination claim: pornography subordinates women.

The constructionist claim: pornography constructs women's natures in a way that is, in some sense, wrong.

I drew on John Searle's (1996) account of social ontology, according to which social entities are created by the imposition of status functions through collective intentional recognition. For example, if we all collectively recognise that certain pieces of paper are to serve as currency, this transforms those pieces of paper into money. This is a *status* function because the pieces of paper can only function as currency on the basis of our collective recognition of them as having that status (compare: a screwdriver can function to screw and unscrew screws even if we have no beliefs at all about what it is for). Status functions can be expressed by the formula 'X counts as Y in context C'.

My suggestion was that:

[W]e 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]>. (2017, 99)

This supports the subordination claim in a pretty straightforward manner (being constructed as an object for the sexual use of others is clearly subordinating). I then offered two routes to cashing out the constructionist claim, specifically its second component: the idea that way women are socially constructed is somehow wrong. The first route, inspired more by MacKinnon's writings, is simply to enact a performative refusal to go along with the social construction. The idea here is that *for us*, it is wrong to say that women are objects for male sexual use, because we *reject* and *refuse to participate in* the collective intentional acceptance of the relevant status function. The second route, inspired more by Haslanger, is to say that the construction of women as objects for male sexual use is wrong in the sense that it is falsely presented as a natural fact when it is really a social fact – a 'debunking' move of the kind commonly made in work on social construction.

Mikkola's Critique

Mikkola argues that although my reconstruction of the subordination and constructionist claims is comprehensible, the claims as I reconstruct them are

implausible due to their reliance on Searle's account of social ontology (233-240). She notes that, for Searle, collective intentionality involves an irreducible we-intention, as when the members of an orchestra intend *to play a symphony together*, rather than each simply intending to play their own part of the symphony. This means that in order for women to be constructed as objects for male sexual use, as Mikkola puts it, 'there would have to be something like a sexist conspiracy that constructs women's natures in some particular manner', involving 'a *shared collective agreement* to impose particular status functions on groups of people in order to construct them as gendered individuals in some specific way' (239). Mikkola argues, and I agree, that this is simply not a plausible picture of how a gendered social system is maintained. If we look for the kind of explicit intentional agreement among individuals to maintain gendered social practices (that are profoundly sexist) which is required for the Searlean versions of the subordination and constructionist claims to be true, we will not find it. Thus, the paper does not succeed in offering a *sympathetic* interpretation of the subordination and constructionist claims, which was its aim.

This is Mikkola's principal criticism of the paper, but her book actually raises two further criticisms – one in a footnote, and one that is implied by the methodological commitments that she argues for.

In a footnote, Mikkola raises worries about the performative rejection version of the constructionist claim. She finds it too weak, because it gives up on the idea that the construction is *false*, and indeed amounts to an assertion along the lines of, 'I don't like it'. This is a compelling point. Certainly, the performative rejection interpretation of the constructionist claim does not seem to do justice to MacKinnon's assertion that pornography is a *lie*.

Finally, towards the end of the book, Mikkola makes a strong argument that:

[P]hilosophical theorizing about pornography requires having knowledge about the empirical realities of pornography as a cultural phenomenon and as an industry – otherwise one is not in a good position to advance empirically adequate analyses of pornography. (259-260)

This is something that my 2017 paper conspicuously fails to do. For example, instead of engaging with the issue of whether the content of pornography really is such that it

presents women as sexual objects for the use of men, I duck the issue by stipulating that I will talk only about ‘m-pornography’, or misogynist pornography – pornography that meets the MacKinnon/Dworkin (1988) definition as essentially subordinating – without taking a stance on what proportion that amounts to of the pornographic material that actually exists today. Although I cite two empirical studies that have led me to believe that much of the pornographic material that exists today is profoundly misogynistic, I don’t actually undertake the kind of empirical engagement that Mikkola – rightly, in my view – advocates.

So, to sum up, Mikkola raises – directly or indirectly – three problems for my paper:

1. The reliance on Searle creates a requirement for explicit collective agreement to enact gendered social practices, rendering the claims implausible.
2. The ‘performative rejection’ interpretation of the constructionist claim does not really secure the idea that the construction is *wrong* in as strong a sense as might have been hoped.
3. In talking about misogynistic pornography whilst refusing to take a stance on how much of pornography is misogynistic, the paper fails to engage meaningfully with the empirical reality of pornography.

These problems all strike me as genuine, and in the rest of this paper I’ll try to respond to each of them in turn.

Beware What You Borrow

Problem 1: *The reliance on Searle creates a requirement for explicit collective agreement to enact gendered social practices, rendering the claims implausible.*

Firstly, it’s worth noting that even Searle starts to see in his later work (2011) that it’s a mistake to theorise the social world as if it runs on explicit collective acceptance. He comes to focus more on collective *recognition* of deontic powers than on *acceptance*, and to allow for naturalising ideology. However, I’ve come to the view that it’s all rather too little, too late. The solution here is not to focus on Searle’s later work, but to move to

a different account of social ontology, one that does not emphasize explicit collective intentionality in the same way.

Johan Brännmark (2018a; 2018b) offers an account of institutional reality in which deontic powers are understood in terms of patterns of deontic incidents – incidents such as being treated as having a duty to do P, or being felt to have overstepped the mark in doing Q. In other words, Brännmark conceives of deontic powers (both constraints, such as duties, and enablements, such as entitlements) in terms of the social moves that are effectively ‘open’ to an individual, where this is determined by how people actually respond to one another in various situations. Whereas Searle holds that the existence of deontic constraints and enablements requires people to have explicit beliefs about the entitlements, duties and so on of others, Brännmark rejects this requirement. This means that he can allow for deontic constraints and enablements that are generated by, for example, racist and sexist implicit attitudes on the part of people who would disavow explicitly racist and sexist beliefs. As Brännmark puts it:

‘People can identify types of responses as sexist and racist in the abstract and think that *being a woman* or *being a person of color* does not really warrant having fewer moves open to one; but they can still, in a patterned way, regard specific actions by concrete person occupying these social positions as overstepping boundaries – it is just that *being a woman* and *being a person of color* will not be consciously recognized as the cues to which they are responding.’ (2018a, 9)

For example, a person might not explicitly believe that women should speak less than men, but (due to unconscious sexist bias) they might reliably perceive a woman who speaks for 50% of the time in a two-person conversation as dominating that conversation, where they would not have that perception if a man did the same (Brännmark 2018b, 8). The point also applies equally well to the question of which actions are perceived as *not* overstepping boundaries. For instance, a person might consciously believe that Black people deserve as much respect for their bodily boundaries as White people, but might not perceive touching a Black person’s hair without invitation as a disrespectful thing to do, although they would consider it disrespectful to do the same to a White person. The existence of a pattern of incidents of this sort is sufficient for there to be deontic constraints and enablements. A person

can then be thought of as having a certain deontic *status*, comprised of all the deontic constraints and enablements they are under in a context, and having such a status is what makes someone a member of an institutional kind.

Although the apparatus of status function formulae ('x counts as y in c') is specific to Searle's model, Brännmark's account maintains the idea that social status is central to the construction of social entities. This enables us to say that the social kind *women* consists of a status that is made up of deontic constraints and enablements that are subordinating – for example, the absence of protections from unwanted sex. This supports the subordination claim in much the same way as the Searlean version does. But unlike the Searlean version, the Brännmarkian version does not require an explicit collective intention to uphold (deeply sexist) gendered social practices. Instead, it just requires that agents have patterned, gender-based responses in particular situations that constitute those practices. The kinds of responses that are relevant here might include the following: perceiving sexual behaviours towards women that are in fact non-consensual as consensual or otherwise permissible; perceiving women as acting inappropriately when they refuse consent to sex; perceiving women's justified acts of resistance to sexual violence, such as speaking out publicly, as inappropriate; and perceiving women primarily in sexual terms in contexts that make this perception inappropriate. Jointly, these kinds of responses create an inferior deontic status – one characterised by a disadvantageous set of deontic constraints and enablements – and it is having this status that makes someone a member of the institutional kind *woman*. The existence of such a pattern of responses is much more plausible than the existence of a 'sexist conspiracy'; indeed, it seems to me to be difficult to deny.

My question to myself at this juncture is: why did I use Searle's account of social ontology in the first place? Granted, Brännmark's account specifically was not yet published, but other accounts were available that included feminist commitments, for instance, Ásta's (2013) conferralist account. Moreover, I was at the time (2016) working on the ways in which Searle's theory would need to be modified in order to do justice to race and gender oppression (a project I've since abandoned as both impossible and unnecessary). So I was hardly unaware of the kind of difficulties

Mikkola so rightly raises, though I didn't appreciate their full weight in relation to this case.

I think the reason I still used Searle's account is because using *the most mainstream* account of social ontology that I could lay my hands on to try to vindicate these claims that have been so often dismissed as nonsense seemed like a really appealing argumentative move. This is, of course, the move Langton makes to such effect in 'Speech Acts and Unspeakable Acts' (1993), using Austin's theory of speech acts. And I do think it is a powerful move. Being able to say: look, you don't need to accept any new theories of how the general phenomenon (social entities, speech acts, etc) works – just apply your current understanding to this case; now do you see how this radical feminist claim about pornography is something that *by your own lights* you should be taking seriously? But it is also a move fraught with danger: what we are borrowing may well be hostile to what we're trying to do in various ways.

The lesson I learn from this is to be very careful what I borrow from theories that have obviously not been created with feminist aims in mind. Searle, for instance, assumes without argument that *women* is a natural or biological kind, not a social kind – hardly a promising starting point. And, of course, his record of sexual harassment, though unknown to me at the time I wrote the paper, is highly suggestive of his general political stance in this area (in June 2019, he was formally stripped of his status as a UC Berkeley emeritus due to being found to have violated university policies on sexual harassment and retaliation).¹ Now, it is *possible* that an account developed by a deeply sexist individual who is paying no attention whatsoever to gender oppression in his analysis might turn out to be a useful resources for feminist arguments. But, let's be honest, it's not going to be surprising if it doesn't. So despite the temptation for feminists of pulling the 'gotcha!' move outlined above, and garnering the aura of legitimacy that may follow from using mainstream accounts of the relevant phenomena, we would do well to treat these accounts with the scepticism they deserve and to look instead to accounts with feminist commitments built in. This is of course

¹ <https://www.dailycal.org/2019/07/02/former-professor-john-searle-loses-emeritus-status-over-violation-of-sexual-harassment-retaliation-policies/>

by no means a new or startling insight;² but I think the present case serves as a good illustration of the pitfalls of the temptation given *how much better* Brännmark's account does than Searle's when it comes to rendering the subordination claim plausible. I think it's also helpful to be honest about the existence of the temptation, and its appeal to feminist philosophers, especially early career philosophers, who are making our way in a discipline that so often seems fundamentally hostile to feminist projects.

Embrace the Normative

Problem 2: The 'performative rejection' interpretation of the constructionist claim does not really secure the idea that the construction is wrong in as strong a sense as might have been hoped.

One obvious option for responding to this problem is simply to abandon the performative rejection interpretation and rely solely on the 'debunking' version. However, this strikes me as less than fully satisfactory. The debunking version allows us to criticise the construction of women as sexual subordinates on the basis that it falsely presents a social fact as a natural fact; but this, we might think, is not the only thing about the construction that is *wrong*. Consider: if the construction was transparent (like the social construction of money, say) and the subordinate status of women was fully understood to be a social construct, this wouldn't make everything OK! Many constructions are defective in the sense of being naturalising, but this particular construction seems defective in a further way. I agree that performative rejection doesn't give us what we want here, but it seems something further than the debunking interpretation is called for.

In the paper, I shied away from cashing out this defectiveness in explicitly normative terms, but I now think that that is exactly what is required. In fact, I think that the work here can be done by a concept I have developed, that of *ontic injustice* (2016; forthcoming). Ontic injustice is a distinctive form of injustice that concerns the social

² Sally Haslanger tried to get me to appreciate this point in 2015; I wish I'd taken her words on board more fully then.

construction of human kinds, and which captures the way in which an individual can be wronged by the very fact of being socially constructed as a member of a certain social kind.

Here is a definition of ontic injustice:

Ontic injustice: An individual suffers ontic injustice if and only if they are socially constructed as a member of a certain social kind where that construction consists, at least in part, of their falling under a set of social constraints and enablements that is wrongful to them.

I understand the wrong of ontic injustice to consist of a moral injury, which is understood roughly as an ‘affront to value or dignity’ (Hampton 1991, 1666). An individual suffers a moral injury when they are treated in ways that give the false impression that they have lower moral worth than they really do.

The key idea in the notion of ontic injustice is one of a *mismatch* between what someone is ethically entitled to, given the sort of being that they are and the type of moral worth such beings have, and the social constraints and enablements that constituted their membership in a social kind. For instance, in England and Wales prior to 1991 the existence in law of the marital rape exemption meant that being a member of the social kind *wife* consisted, in part, of lacking the social entitlement to control fully sexual access to one’s own body. A man could rape a woman with full legal impunity, provided that she was his wife. Being without the entitlement to be protected from rape by a specific man (one’s husband) was, in Brännmark’s terms, a deontic constraint that partly constituted the overall deontic status that characterised the social kind *wife* in that context. This constraint was wrongful to those individuals who were socially constructed as wives because it removed their social entitlement to do something that they were morally entitled to do (namely, to control fully sexual access to their own body). So the social kind *wife* at this time was a site of ontic injustice.

In a similar – and indeed very closely related – way, the constraints that comprise the deontic status that characterises the kind woman, if the picture presented in the previous section is accurate, are very seriously wrongful. The social construction of women as sexual subordinates is an ontic injustice: in virtue of the kind of beings women are (human beings, for example), women have moral entitlements such as

being free from sexual violence, and these moral entitlements are at odds with the social entitlements that they have qua women. In terms of the constructionist claim, this means that we are entitled to say that the construction of women as sexual subordinates is defective in terms of being *wrongful*. Note that the concept of ontic injustice helps us to say that what is wrongful is *the construction itself*, and not solely the acts that may follow from, or be made more likely by, the construction. All of this is compatible with the construction not being strictly speaking *false*. However, it makes sense of why one might want to say, as MacKinnon does, that the construction is a ‘lie’: it gives the impression that subordinating ways of treating women are normatively appropriate when in fact they are not.

The more general point I take from this is not to be shy of making normative claims. Feminists, I think, need to be willing to make normative, indeed *moral*, claims in spelling out why oppression, including oppressive social construction, is wrong. If we stop short of this, as I did in the paper, then there may well be something unsatisfying about the positions we reach.

Pornography as a Safety Blanket

Problem 3: *In talking about misogynistic pornography whilst refusing to take a stance on how much of pornography is misogynistic, the paper fails to engage meaningfully with the empirical reality of pornography.*

I find it very interesting to reflect on this problem. I agree strongly with Mikkola that empirical engagement is important, and this is in line with my broader views about how I want to do political philosophy. Yet I rather spectacularly failed to follow through on it in the case of my 2017 paper.

Now, there are a couple of reasons I ducked the issue of how much pornographic material is misogynistic in nature in the paper. One is space, because it takes words to explain and defend an empirical claim such as this *and then* one has also to make the philosophical argument. I think this is a structural barrier to empirically engaged philosophical work, given the typical constraints of length for both journal articles and chapters in edited volumes, and one that merits serious reflection. But I don’t want to

rely on this as an explanation in this particular case, because I didn't in fact *have* a lot of material on the empirical dimension that I had to leave out. In fact, I wasn't terribly interested in it at all, to tell the truth. And I think this was because what I wanted to say in the paper *wasn't really something specific to pornography*. Although I frame the argument in terms of the subordination and constructionist claims, I was really interested in exploring the relationship between cultural representations *in general* and the construction of social kinds. Essentially, I was interested in ideology and social construction, and the role of cultural representations in both. For example, I actually think the argument applies just as well to the *Twilight* series of young adult novels as it does to most pornography.

However, pornography was a convenient and safe hook on which to hang these points. At the time at least, analytic feminists weren't talking a great deal about ideology, and the debates in continental philosophy felt difficult to access given my training. The existing literature on pornography in analytic feminist philosophy gave permission and context to explore those ideas. In this sense, pornography was functioning as a 'safety blanket' for me as an analytic feminist philosopher, allowing me to explore topics that would otherwise feel uncomfortable or precarious, and I suspect I may not be alone in this. Now, this emphatically isn't about pointing fingers or saying people should have gone about their research differently, so I won't say *which* papers, but I've certainly read papers on pornography that make me think that what the person is really interested in is some much more general phenomenon, of which pornography is just one example, but framing it as a paper *on pornography* allowed them to slot it into an existing literature and get the point across to analytic readers in way that is more likely to be sympathetically received.

This can be a fine move: we all need to get our work published, and where others have been talking about similar issues it's good to make connections. But I do think that we also need to consider the costs associated with the pornography-as-safety-blanket approach. In my view, there are several. For one thing, such an approach mystifies the social world by making the points raised sound like they arise specifically in response to pornography, rather than being relevant to a wide variety of cultural products in our

sexist world. For another, it can help to set up an impression that we want to promote policies or restrictions concerning pornography specifically (this impression can be cancelled but I think it's in the air whenever we single pornography out). Finally, it is less radical than a more broad-ranging critique of misogynistic cultural products would be: it calls fewer elements of our social world into question, and therefore does not go as far in demonstrating that far-reaching social change is called for. So if I were to rewrite the paper – something I shan't attempt here – I would make it a general argument about misogynistic cultural representations, and not about pornography specifically.

What I take from this is that we should not only heed Mikkola, and engage with the empirical realities of pornography, but we should also check that pornography is really what we want to be focusing on, rather than merely serving as a safety blanket. Ironically, then, one thing I take away from Mikkola's excellent book on pornography is that I myself probably should never have been writing about pornography in the first place.

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