

Attributive Silencing

My aim, in this paper, is to explore a novel form of silencing first discussed in print by Mary Kate McGowan [2019], which I call *attributive silencing*. Whereas Rae Langton [1993], Jennifer Hornsby [1995], and others have brought the tools of analytic philosophy of language to bear in helping us to understand ways in which people can be rendered unable to be successful in communicating, and Kristie Dotson [2011] and others have explored how epistemology can reveal other ways in which this can happen, we learn about the possibility of attributive silencing through the philosophy of action and the theory of responsibility. Attributive silencing, I will argue, far from a bare theoretical possibility, is an indisputably genuine phenomenon, but how easily it can happen will depend on the correct theory of attributability, and hence on the correct theory of persons. On some theories of persons it will be rare, but on my preferred, *interpretive* account of persons, attributive silencing can happen quite easily and without fault. The phenomenon of attributive silencing therefore has many important possible applications, but I will close by considering how it applies specifically to women's refusals of sexual advances, one of the original applications of theoretical work about silencing.

I Background

It is the holiday season as I write, and shopping centers everywhere are filled with the sound of seasonal music. Classics sung by Bing Crosby and new additions from Taylor Swift mix with the obligatory Mariah Carey and Kenny G. But you can never go far without encountering one of the over two hundred (according to Wikipedia) different recordings of 'Baby It's Cold Outside'.¹ Perennial fodder for social media disputes over whether it is a cute depiction of what counted for sexy flirting in the 1940's or an exemplification of rape culture that glamorizes lack of sexual consent, the lyrics consist in an exchange between a female voice who says things like 'I really can't stay... I gotta go away', 'my father will be pacing the floor', and 'say, what's in this drink?' while the male voice responds, 'baby, it's cold outside' and 'how can you do this thing to me', and encourages her to stay for one more drink.

¹ I can't vouch for the accuracy of this number; Wikipedia only catalogues seventy-one distinct recordings.

The striking feature of this song on which I want to focus is that such different interpretations of the same conversation are even possible. On one interpretation – call it the ‘intended’ interpretation – a woman wants to stay and have a drink but is worried about appearances, and so must put up the appearance of resistance in order to exercise her own sexual agency. Whereas on the other interpretation – call it the ‘available’ interpretation – the woman really is trying to get away while making polite excuses, but her excuses are being rejected as if they are her only reasons, rather than the making-polite way of expressing rejection. No doubt the intended interpretation is aptly named, but what interests me and should interest all of us is the fact that the very same text could be a script for either dialogue, and interpretive judgment is required in order to understand which script is being followed.

All of us, I think, have at some point or another had the experience of trying to tell someone something but being unable to get through to them. This is the phenomenology of being silenced. If you have not yourself been in the difficult position of trying to let someone’s romantic or sexual interest down lightly, you may at least have teenage children to whom it is difficult to get through – or more likely – have been a teenager with parents to whom it is difficult to get through – at some point. But decades of work in feminist theory have made clear that the experience of being silenced is not equally distributed. It is a much more dominant and prevalent part of the experiences of those belonging to groups subject to various sorts of oppression and marginalization. The controversy over ‘Baby It’s Cold Outside’ helps all of us – regardless of the force of our own encounters with this experience – to hold firmly in view the reality of this phenomenon. The experience of silencing is real, and silencing is recognizable – the only questions are *how* it is possible, and what is actually happening in cases like this.

This is where philosophy comes in. And here it will help to regiment vocabulary slightly. Let us say that someone is *silenced* in the respect, and to the degree, that they face some obstacle to communicating what they would like to communicate. In so regimenting this term for purposes of this paper, I am following Maitra [2009] in setting aside some of Langton’s [1993] illustrative examples of illocutionary disablement in which the illocutionary act that someone is prevented from performing serves some non-communicative purpose, such as marrying or naming. But I leave open the possibility that silencing can come in degrees. And I purposely leave open whether the obstacle that they face has been imposed by anyone who *does* the silencing. We can still say that some person *silences* another, treating ‘silence’ as a transitive verb, but I just insist that we leave open whether someone can be silenced without anyone silencing them, and I leave open

whether only persons belonging to oppressed classes can be silenced – with of course the expectation that this will turn out to be the paradigm.²

I will also distinguish the state of being silenced from the experience *as of* being silenced. Often, of course, when someone has an experience as of being silenced, they really are silenced. I don't doubt that this is true, and everything that I say in what follows will go towards confirming it. But strictly speaking, this is not logically established by any of our real experiences as of being silenced. And we should leave open the possibility, until philosophy can close it for us, that not all experiences as of being silenced are veridical. For example, if the teenager feels unable to get through to their parents and their parents feel unable to get through to the teenager, then it may help to reserve judgment on the possibility that one of their experiences is non-veridical – certainly each can acknowledge that the other has an experience as of being silenced without giving up the game and granting that this experience is veridical.

So understood, silencing could come in many forms, due to many different possible obstacles to someone communicating what they would like to communicate. The simplest such form, and the easiest to understand, is that someone can face disincentives for speaking their mind, so that they do not speak out at all. Generalizing slightly, let us call such silencing *locutionary* silencing, since it cuts off communication before speech. Locutionary silencing is the sense in which non-disclosure agreements silence, by imposing legal penalties for speaking up, and it is this sense in which campus conservatives claim to be silenced by social censure for right-leaning views on college campuses. It is easy to understand why this kind of silencing would be unequally distributed so as to fall more heavily as a burden on those belonging to oppressed classes. After all, creating or resisting disincentives for someone to speak their mind is an exercise of power, and power is unequally distributed between the members of privileged and oppressed classes.

It is highly plausible that there is some element of locutionary silencing going on in the case of the available interpretation of the conversation in 'Baby It's Cold Outside'. This is because gendered norms of polite communication impose costs on being direct – especially with respect to communicating rejection. There are predictable sociological reasons why the female voice does not just say, 'put the fucking drink away and bring me my coat, you rapey toad', even if that is what she is thinking, and even on the available

² Some will prefer to reserve the term 'silencing' for use in contexts of oppression, but that can't settle the substantive question of whether silencing as I have understood it can also happen in the absence of independent forms of oppression. So from an analytic perspective it is helpful to use a term that leaves this question open. As I have already insisted and will remain clear, I agree that even if we do not stipulatively narrow our use of 'silencing' in this way, it is still no coincidence that silencing is systematically unjustly distributed in ways that adversely affect the experiences of those facing independent forms of subordination and oppression. This important fact, I think, is better brought out by using our terms in a way that does not obscure its substantive importance. Similarly, McGowan [2019] reserves the term for cases that are *systematic*, and again I agree that these are the most interesting cases, but hold that we can best build up to our understanding of systematicity by naming the thing that we take to be systematic, and then explaining what makes it systematic in some cases. So again, I will not build this into my use of the term.

interpretation of what is going on. But locutionary silencing does not *suffice* to explain what is going on in this interpretation of the dialogue, because the female voice is not completely locutionarily silenced – merely directed toward politer, less direct, ways of communicating. And these ways of communicating are still sufficiently direct that those who hear the available interpretation can imagine saying exactly these things and communicating successfully with an appropriately receptive friend. So something more is required in order to explain how someone could actually speak their mind clearly and out loud and still face an obstacle to successful communication.

We have come to learn about many such possible forms over the last three decades, beginning with Langton's and Hornsby's treatments of *illocutionary disablement*, in which someone comes to lack the conditions necessary to perform illocutionary acts such as asserting or informing, and including Samia Hesni's [2018] recent account of *illocutionary frustration*, in which someone does have but is perceived by another as lacking the standing required to perform an illocutionary act, Mary Kate McGowan's [2014] conception of *sincerity silencing*, in which someone is interpreted as not being genuine sincere, and many others. Each of these theories provides a *model* for what *might* happen, which explains why if that *were* to happen, there would be a formidable obstacle to communication. In general, these models explore simple possibilities left open by our best understanding of what is actually required for successful communication, and so the interesting questions about applying these theories largely concern the extent to which they capture what is going on in the real-world cases of silencing that we can identify, as well as in others that remain more controversial.

These – and other – models for how silencing can work differ not only over the details of what the mechanism of silencing is, but also over the intelligibility of non-veridical experiences of silencing, the extent to which silencing of this kind can come in degrees, the extent to which this kind of silencing can be imposed by someone else, the degree of fault required of conversational interlocutors in order for this kind of silencing to obtain, and the ease with which the empirical conditions of this form of silencing can obtain. The richness of these differences suits different models of silencing for capturing different phenomena – and different layers of the same phenomena – which would otherwise be run together. So it is in that sense worth letting a thousand flowers bloom, the better to discover which bear which fruit.³ The remainder of this paper is offered in this same spirit – not to defend a competitor, but to explore the contours of what can be expected from a very different way of thinking about how silencing might occur.

³ Here again I follow and am inspired by McGowan's ecumenicism.

2 Attributive Silencing

As its name suggests, attributive silencing is made possible because only some of our behavior, and not all, is properly attributable to us in the fullest sense. When I say that some behavior is attributable to you in the fullest sense, I mean, as theorists sometimes say, that it reflects your self, rather than being simply attributable to your environment or to other causes working within you. For example, if you snap at me in part because you are hangry, your tone of voice may be attributable more to the fact that your digestive tract expects calories than to you. It is part of your behavior, but it is also properly overlooked in order to engage with you.

If you snap at me out of hanger, in this way, then if I understand this, it does not make sense for me to become defensive or to snap back. If I do get defensive about your tone of voice, then it should be enough to defuse the situation for a common friend to point out that you have simply missed lunch, and the appropriate response should instead be to pass you a Snickers bar. Of course, even when you snap out of hanger, the content of what you say may reflect your choice and judgment even while the tone in which you say it reflects your hunger and your circumstances. So judging which aspects of someone's behavior merit responses and which are best overlooked as deriving from their circumstances requires care. But we do it all of the time.

When I first met my now wife's family, I was introduced to her grandfather, who had suffered a stroke the previous year. As he explained it in warning me about his ability to communicate, "last year I got stoked, and since then, everything is a little *whoo-hoo*." (You have to imagine the twinkle in his eye and a hand gesture showing that things go over his head.) At first, I saw no evidence of his stroke – he was wily and funny and participated in every part of the conversation – but at some point I began to have trouble keeping track of the reference of his pronouns. He would say things like 'she is going to graduate school', when I was the only one that I knew of heading to graduate school, and 'he has gotten so tall', when my then-girlfriend was the only obvious candidate for who had gotten tall. It eventually became clear that the genders of the pronouns that he was using were coming out more or less random. At first this made it difficult to interpret him, but after a few hours I was able to simply overlook it. Instead of treating the gender of his pronouns as a matter of choice, I began to treat it as something to be ignored, as monolingual English speakers ignore tone unless trying to mimic speech, and as we ignore accents, once we get used to them.

So we are constantly interpreting one another by selecting out which aspects of their behavior are the signal that we must pay attention to, in order to engage with them as persons, and which are noise that must be overlooked. If we engage with the noise, then we are liable to deep misunderstandings of one another.

For example, if I get defensive about the tone in your voice or give you a mini-lecture about not speaking rudely, I am missing the point and you are liable to escalate an unnecessary conflict between us. And if I correct my wife's grandfather by explaining that my preferred pronouns are 'he' and 'him', all that I am doing is picking a pointless fight. To avoid misunderstandings like this, we need to be able to distinguish the protagonist from her predicament. As Strawson [1962] famously observed, anger, gratitude, resentment, and admiration are all appropriate attitudes to have toward the aspects of someone's behavior or psychology that represent their agency as a protagonist, but make little sense as attitudes towards those that are merely consequences of their predicament.

But to interpret someone in this way requires constantly making interpretive choices – whether we think of them as choices or not. We must take a stand on which aspects of someone's behavior or psychology are the ones to be engaged with, and which are not. But as any physician will remind us, no way of determining something like this can be perfect. Any test that we use will be subject to false positives and to false negatives. If we identify some part of someone's behavior as attributable to them and it really is, then that is a true positive, which is great, and is hopefully the normal case – it lets us engage with them. And if we identify some part of someone's behavior as not attributable to them and it really is not, then that is a true negative, which is also great, and allows us to overlook hangry tones of voice and stroke-scrambled pronoun genders. But if we identify some part of someone's behavior as attributable to them and it is not, that is a false positive for attributability, and as we've seen, that creates problems, as in the case where I get defensive over your tone of voice or pick a fight with my wife's grandfather over either my gender or his grammar.

But in addition to true positives, true negatives, and false positives for attributability, we are also bound to end up with false negatives for attributability. Indeed, no matter how well-intentioned we are, the only way to avoid at least some false positives is to accept some risk of false negatives. In a case of a false negative for attributability, we identify some part of someone's behavior as not actually attributable to them when in fact it is. For example, you raise your voice in order to make clear to me how strongly you feel about something, but I write it off as hanger. Or you laugh out of genuine amusement at my jokes but out of insecurity I interpret this as simply baseline courtesy.

Whenever there is a false negative for attributability in this way, some important exercise of my active agency is overlooked or dismissed as not worth engaging with, as if it were merely the product of hunger, or nerves, or hormones, or too much alcohol, or too little sleep. This is not by itself silencing, since of course not all behavior is an attempt to communicate. But since speech is of course a *kind* of behavior, the same principles that apply to behavior in general also apply to speech. When someone's communicative act is

recognized by someone else but interpreted as not genuinely attributable to them when it really is, we have a false negative for attributability of a communicative act. When this happens, you are trying to communicate to someone, and they even recognize that you are trying to communicate with them. But they dismiss your communicative act as best overlooked and not engaged with, in the same way that it is right to overlook your hangry tone of voice or my wife's grandfather's pronoun genders.

This is a very distinctive way for your communicative act to be unsuccessful. It is not unsuccessful because you did not say anything, or because circumstances prevented you from performing your intended illocutionary act. Nor is it unsuccessful because your interlocutors mistook the situation for one in which you could not perform that illocutionary act, or mistook your intentions as not really intending to perform it. Rather, it is unsuccessful because even after recognizing exactly what illocutionary act you have successfully performed, your interlocutors interpret it as not mattering or being worth engaging with, because you are only saying this because you are hungry, or tired, or drunk, or being affected by drugs or hormones.⁴

This does not quite satisfy our definition for being silenced, because we said that being silenced requires you to face some *obstacle* to successful communication. But strictly speaking, someone can misinterpret you without there being any obstacle to them interpreting you correctly. So we shouldn't quite say that false negatives for the attributability of a communicative act are themselves automatically cases of silencing. But typically, of course, it will not be random that someone misinterprets you in this way – something about the situation will make it more difficult for them to avoid this kind of false negative for attributability to you. And whatever makes that more difficult will therefore be an obstacle to you communicating what you would like to communicate. So in such cases, it makes sense to say that you are *silenced*. I will descriptively dub this kind of silencing *attributive* silencing, in recognition of the role of the concept of attributability helping us to understand its nature.

Mary Kate McGowan introduced the concept of attributive silencing in chapter six of her 2019 book, *Just Words*, and in an article version of the chapter, McGowan [2017]. And in correspondence, she credits it to a suggestion by Lauren Ashwell at an APA meeting. In McGowan's taxonomy, it is *type-4* silencing. But McGowan only spends a couple of paragraphs on attributive silencing, so it is a little bit hard to tell how important she thinks that it is. In the remainder of this paper I will be trying to argue that it *may* in fact be both important and pervasive.

⁴ It is therefore a kind of *perlocutionary* failure, in the classificatory terms of Langton [1993]. Langton writes off perlocutionary failures as less interesting forms of silencing, in part because of her specific dialectical goals and the fact that legal freedoms of speech arguably do not include perlocutionary freedoms. Yet attributive silencing is not just any failure to achieve one's perlocutionary goals. It really is, for all communicative and interpersonal purposes, as if one had not spoken at all.

3 The Shape of the Thing

Like all models for how silencing can occur, it is one thing that say what it would be for someone to be attributively silenced and for us to agree that that is in principle a possible situation that someone could get into, and another to conclude that it is easy enough to get into this situation that it could be a common enough experience to be worth talking about. And it is yet another thing still to establish that the empirical conditions of this kind of silencing actually obtain in any of the original range of cases that motivated our inquiry.

One very important worry about attributive silencing derives from the thought that respect for persons always requires respecting their own authority to the effect that some particular aspect of their own behavior or character is in fact attributable to them. So while it may be *possible* to mistake the tone in my voice as coming from the fact that I am hangry, once I tell you, “and I’m not just snapping at you because I’m hangry, either – the way that you’ve been treating me has been bothering me for months,” it would be at worst contemptuous and at best disrespectful for me to continue to interpret you as merely snapping out of hanger and hence to interpret my tone as requiring no response other than a Snickers bar. So as long as we are able to communicate with one another, we can always, you might think, overcome any such interpretive obstacles.

But wait. *So long as we are able to communicate with one another*, this is of course true. But of course attributive silencing is itself an obstacle to communication. So if the respect in which someone is attributively silenced itself includes their very attempts to communicate that they are being attributively silenced, then they will not be able to communicate their way out of it. So the important question is: how realistic is this?

Take the case of Odysseus, who has heard from Circe that the song of the sirens is both bewitching and beautiful. We all know the story: he tells his sailors to tie him to the mast and to plug their ears with wax, so that they cannot hear the sirens and will not be tempted. But even more important to the story, of course, is that the wax will prevent them from hearing his own revised orders, once he has fallen under the sirens’ sway. “Keep the wax in your ears,” he warns his sailors, “else you will hear me issuing bad orders! None of those orders will be worth a whit, because I won’t be myself – I will be under the influence of the sirens.”

In the normal version of the story everything goes as planned. But it will be helpful for us to consider a different version of the story – one in which the wax slips from one of the sailor’s ears. In my version of the story, however, luck would have it that the wax falls out just as the sirens are pausing in their song to take a breath. So instead of hearing their alluring song, he hears only the yells of Odysseus over the waves.

Odysseus says, “thank the gods, man, that the wax has fallen from your ears. Come untie me from this mast so that we can pilot the boat safely. Earlier, when I asked you to tie me to the mast, I was under the influence of that evil witch, Circe. But only now has the song of the sirens cleared my head and have the scales fallen from my eyes. This is now me speaking clearly and in my own right. Come untie me!”

The sailor must make a choice between which Odysseus to believe. The earlier Odysseus, who claims to be in his own right mind and says that the words and actions of the later Odysseus do not speak for him and should be disregarded, or the later Odysseus, who claims to be in his own right mind and says that the words and actions of the earlier Odysseus do not speak for him and should be disregarded. In the original version of the story, context makes clear which of these is the right interpretation. But we can't always be sure while it is happening, and either answer refutes the naïve view that we must always defer to the privilege of an agent's own judgment. Fate can sometimes put us at odds with someone's own self-interpretation, and lead us to think – sometimes rightly, but also sometimes rationally even when we are not right – that they are wrong about themselves, and that they are only interpreting themselves in that way because they are so far gone under the influence.

This is exactly how we treat the alcoholic's assurances that they really can stop after one more drink and they are not yet out of control: we think, the fact that they think so is just one more way in which alcohol has them in its grip. It is how we treat the rebellious teenager who thinks they will have no regrets engaging in some risky behavior: we think, the fact that they think so is just another manifestation of their need to distance themselves from their parents. And it is how the sailor must treat Odysseus, no matter which version of Odysseus he elects to trust. We may not always get things right when we overrule agents' own judgments about which of their actions speak for them and which do not, but the fact that we *sometimes* get them right in this way provides a rationalizing explanation for why we do it even in cases in which we get things wrong in so doing. And this is just another way of saying, of course, that in order to avoid at least some false positives for attributability, we must risk false negatives.

So not only does proper deference to someone's self-interpretation not give us an automatic and easy way to escape being attributively silenced, I take it that this is some evidence that we do, in fact, interpret one another in ways that open us up to the risk of attributively silencing them, if our interpretations are mistaken.

We have also seen that attributive silencing possible without anyone being the one who is *doing* the silencing of someone else. It is a condition that someone can fall into when the circumstances elevate the risk of false negatives for attributability of some range of their behavior to them. Sticking to our holiday theme, in the movie *Elf*, Will Ferrell's eponymous character arrives in Manhattan from the north pole,

explaining that he knows Santa. When he arrives dressed as an elf at the department store toy department, he is assumed merely to be in character when he makes such remarks – a classic case, I take it, of illocutionary disablement, as circumstances render him unable to obtain uptake as making genuine assertions. But later when he arrives for dinner at his birth father’s home and says the same things, everyone understands that he is making assertions, but they instead interpret these as deriving from a delusion. The circumstance simply makes it hard for his interlocutors to get him right. Such a circumstance could, of course, be the result of someone’s deliberate action, and fodder for an excellent plot line for a better sort of film. But it need not be.

Similarly, nothing about attributive silencing requires the audience to be at fault in any way. Not only is it possible to get someone wrong by mistakenly taking some behavior of theirs – even a speech act – as not being truly attributively to them through no fault of your own, but we have actually seen that it is *inevitable* that each of us will sometimes do so. For accepting the risk of at least some false negatives is the inevitable price of interpreting one another in a way that avoids at least some false *positives* for attributability.

This doesn’t mean, of course, that all attributive silencing is due only to the operation of rational principles of interpretation. We’ll see in the next two sections, for example, that one of the driving circumstantial features that can create an obstacle to being correctly attributively interpreted can be pervasive distortions in social values, which are almost never innocuous and almost always reflect existing forms of social power. And our interpretation of one another can be biased and self-serving, especially when we do not really want to listen to what each other have to say. But it is possible, at bottom, even in the best cases.

Yet even though it is possible for someone to misinterpret us solely through rational good will, there are few things as demeaning as for someone to get us wrong in this way. When they do, they see perfectly well what we are saying, and write it off as irrelevant and not worth engaging with. This cuts deep.

The paradigm, for me, of the deep cut of attributive silencing is Kant’s treatment of his correspondent Maria von Herbert, as drawn out in Rae Langton’s [1992] beautiful and deep essay ‘Duty and Desolation’. After a brief correspondence with von Herbert that challenges his own interpretations of what his own views entail about the moral significance of honesty, Kant bundles up his letters without replying to von Herbert’s latest and passes them on to another correspondent, referring to von Herbert as an “ecstatical little lady” and a “sublimated fantasy”. Her remarks are safely interpreted as the result of feminine hysteria, and as such they do not require engagement and can therefore be used for other purposes – as an illustrative example for another correspondent.

The aspects of our behavior that are attributable to us as those that belong to us as persons, and hence are those that require engagement in order to relate to us as persons. But the aspects of our behavior that that are attributable instead to our environments or to other causes acting on us or in us belong to us

instead as embodied things. They require no such engagement in order to relate to us as persons – indeed they can be properly overlooked and disregarded. So when someone treats something that genuinely belongs to us as a person as if it instead belongs only to us as a thing, they are in effect treating *us* as a thing. This is what I want to suggest is deeply true about Langton’s description of Kant’s treatment of von Herbert:

Herbert, now deranged, is no longer guilty. She is merely unfortunate. She is not responsible for what she does. She is the pitiful product of a poor upbringing. She is an item in the natural order, a ship wrecked on a reef. She is a thing.

And, true to Kant’s picture, it now becomes appropriate to use her as a means to his own ends. He bundles up her letters, private communications from ‘a dear friend’, letters that express thoughts, philosophical and personal, some of them profound. . . These are not thoughts, but symptoms. Kant is doing something with her as one does something with a tool: Herbert cannot share the end of his action.⁵

It is quite astonishing, I think, that Langton provides such a beautiful and accurate description of attributive silencing in a paper first published just one year before her seminal paper on illocutionary silencing. Yet it is clear, I think, that Maria von Herbert has not been illocutionarily disabled, in Langton’s sense. True, Kant is not listening to her – Langton says that “it is hard to believe that he has read her second letter” [1993, 499]. But the problem is clearly not that he does not understand the letter to involve assertions. Rather, what is so hurtful about it is precisely that he thinks it can be safely written off despite this.

Despite not naming attributive silencing or identifying it as a distinctive phenomenon, therefore, I think that Langton has give us our most compelling illustration of its power and depersonalizing consequences.

4 Cases, and Cases

In the last section I observed that attributive silencing cannot automatically be easily escaped, that it need not be malicious, that it has particularly hurtful, depersonalizing, consequences, and that we can easily recognize it from examples, in part through these depersonalizing consequences. But I will now show that both how easy it is to become attributively silenced and how easy it is to escape it must turn on the correct theory of attributability, and hence, I will suggest, on the correct theory of persons. And so consequently, both how much attributive silencing we should expect to find, and the weight of the burden imposed on those who are attributively silenced, must depend on the correct theory of persons as well. As we will see, on my favored theory of persons we should expect to find a great deal, and the burden is often heavy, indeed.

⁵ Langton [1992, 500].

The problem is that since attributive silencing results from circumstances that make it more likely for others to land on false negatives for attributability for certain kinds of communicative acts, the question as to which sorts of circumstances will do so must be answered by the more general question as to what provides evidence as to what is attributable to someone and what is not. And in order to know what provides evidence as to what is attributable to someone and what is not, we need to know, in general, what it takes for something to be attributable to someone at all. That is, we need a general theory of the conditions of attributability.

Although he did not himself use the word ‘attributability’, Harry Frankfurt’s [1971] ‘Freedom of the Will and the Concept of a Person’ offers a seminal treatment of the important distinction that came to be recognized as the distinction between what is attributable to someone and what is not. But it also, as exhibited by its title, advances the important idea that our theory of attributability should flow from our general account of persons. This idea is simple, and I think inescapable: since you are a person, the question of which of your behavior belongs to you underderivatively is the same as the question of which of your behavior belongs to a *person* underderivatively. But this question cannot be answered without knowing what makes you a person. And the question of which behavior belongs to you underderivatively is just the question of what is attributable to you. Hence, our theory of attributability must flow from our general account of persons.

Frankfurt’s own theory of attributability from this paper both illustrated this point perfectly and will serve for us as an illustration of how much the ease of silencing will depend on the true theory of interpretation. On Frankfurt’s own view, a person is a creature with the capacity to determine their actions by their volitions, and volitions are a particular kind of second-order desire. Hence, the actions that are genuinely attributable to you are those that are caused by this special kind of second-order desire. Frankfurt’s is a picture on which you are, more or less, your will, and so behavior that is caused by your will is *ipso facto* directly caused by you, and behavior that is not caused by your will is yours only in a derivative way – by being the behavior of the body in which your will is located.

Now, if Frankfurt’s theory is right, then the question of which of your behavior is genuinely attributable to you is going to be a question of psychological causes of that behavior. If it is caused by desires through the operation of second-order desires that those first-order desires by effective, then it is, and otherwise it is not. So only evidence of the lack of operation of second-order desires of this sort can be evidence that some behavior (including a speech act) is not attributable to you.

Now, given the right sort of background misinformation, anything could of course constitute evidence of this. For example, to pursue an example from the last section, if there is a widespread strong but mistaken belief that sane adults do not believe in Santa and hence do not have second-order desires for their

first-order desires to tell other adults about Santa to be effective, then it may possibly be difficult for someone with first-person acquaintance with Santa to explain this without their interlocutors wrongly taking this speech to not genuinely be attributable to them.

But it is not clear, I think, why we should expect this sort of misinterpretation of the operations of people's psychology to be prevalent or systematic. And indeed, the more that we learn about how human psychology works, it would seem that the better that we should get at avoiding false negatives for attributability. So science and education, it would seem on Frankfurt's view, should do much to minimize the extent of attributive silencing.

But more: Frankfurt's account leaves *open* the possibility, explored in the last section, that someone could be attributively silenced both with respect to some first-order speech and simultaneously with respect to their attempts to communicate that their first-order speech is being attributively silenced. But aside from cases in which this is a simple byproduct of the fact that someone is interpreted as what Frankfurt calls a *wanton* – someone whose volitions are *never* effective and hence whose behavior is *never* attributable to them – there is no reason to think that this is an especially likely combination. The problem is that the effectiveness of second-order desires to communicate that one is being attributively silenced seems too independent from the effectiveness of second-order desires to communicate anything else. And since each of us should have better evidence of the causes at work in our own psychologies than of those at work in others, it provides an especially good reason to take someone's own testimony seriously, that some of their other speech really is genuinely attributable to them.

So if Frankfurt's is the correct account of attributability, then I think that we should conclude that attributive silencing should be expected not to be particularly common, and that in most cases it should be relatively easy to escape, simply by telling our interlocutors that they are misunderstanding us and that our attempts to communicate really are attributable to us and so should not be disregarded. And it predicts that science and education should tend to diminish the extent and significance of attributive silencing.

Frankfurt's account of the conditions of attributability can be helpfully contrasted with my own. Whereas for Frankfurt attributability is a psychological condition that requires a special kind of cause, I have come to be deeply skeptical of accounts of attributability that amount in essence to locating the homunculus somewhere in your head whose actions count as truly yours. As Gary Watson [1975] pointed out long ago, what makes second-order desires so special? But the same question goes, I think, for *values*, Watson's own answer to the source of which actions are genuinely your own, and for any other psychological answer as well.

A different way to get into skepticism about a psychological answer to which behavior is attributable to you begins by comparing different causes that can affect your behavior. Sometimes non-rational internal

causes like hormone levels or drugs can cause you to act in ways that are not yourself, it is true, but sometimes it is those very same causes that allow you to overcome obstacles to being truly yourself. And sometimes, I think, one and the same cause can do both at the same time – an observation many make about the effects of mood-altering drugs. Similarly, we know from situational psychology that sometimes external circumstances can prompt behavior in ways that we take to be more attributable to your environment than to you, but sometimes it is those same prompts, I suggest, that allow you to overcome obstacles to being truly yourself.

I therefore maintain that it is not the causes of our behavior – either internal or external – that determine whether it genuinely reflects us or not. Rather, it is something holistic about how all of these causes jumble together to determine the whole course of our lives. And that holistic thing, I suggest and have argued elsewhere, is that persons like you and me are *interpretive objects*. We are, each of us, constituted by the best interpretation of what counts as truly us and what does not.⁶

The project of deciding what is attributable to someone and what is not, therefore, requires looking at their life as a whole in order to decide what fits into it and what does not. When I interpret the snap in your voice as hanger speaking, I am deciding that an interpretation of you that leaves the snap out offers a better picture of how your life hangs together than an interpretation that leaves it in. And when Kant decides that Maria von Herbert's meditations on duty, the moral law, and honesty are the product of feminine hysteria rather than deep engagement with his arguments, he is deciding that this interpretation offers a better picture of how her life hangs together than the alternative.

Just one piece remains, in order to be able to draw out the contrasts for attributive silencing between my own account and Frankfurt's. And that is that I hold that our interpretations of one another are *evaluatively loaded* – not just in the sense that we are looking for the best interpretation of one another, but in the more specific sense that other things being equal, our interpretations of one another are *biased towards the good*. That is, there is a role for something like a kind of *charity* in our interpretations of one another. This is something that I have argued for elsewhere – most prominently at this conference a few years ago⁷ – and here I will simply rely on it in order to generate a point of stark contrast to Frankfurt, without being able to defend it at any greater length.

Since the question of which of your behavior is genuinely yours and which is not is an interpretive question, there is much more room for disagreement about its answer than there is about the psychological

⁶ Schroeder [2019]; see also Schroeder [forthcoming].

⁷ Schroeder [2019].

question of the causal etiology of behavior in second-order desires. And it is a straightforward corollary of the general fact that there is room for disagreement in interpretation that it can easily happen that my interpretation of you is different from your interpretation of you. But whenever my interpretation of you differs from your interpretation of yourself by attributing *less* to you than you attribute to yourself, you are going to have an experience as of being attributively silenced. That is because *by your lights*, I have hit on a false negative for attributability.

This explanation of why you can so easily have an experience as of being attributively silenced does not, of course, tell us whether you are actually attributively silenced, because it is independent of which of our interpretations is the correct one. But given that it is so easy to disagree in our interpretations of you, it must be almost as easy for us to disagree but you be right. And so, as long as there is some feature that explains why I am interpreting you wrong to count as the *obstacle* to your successfully communicating with me, it turns out that attributive silencing can actually happen quite easily, if my account of attributability is on the right track.

Moreover, because of the role of values in interpretation on my account of attributability, my account should also lead us to expect that situations in which you are attributively silenced with respect to your efforts to communicate that you are being attributively silenced are much more likely to be the norm, than the exception. That is because the role of values in interpretation makes it far from independent whether your telling me that the tone in your voice really speaks for you and not just the hanger belongs as part of an interpretation of you that is biased toward the good, and whether the tone in your voice itself does. If excluding that tone of voice from my interpretation of you helps me to bias it toward the good, then it is likely that excluding your protestations will do so as well.

Compare again the case of Odysseus. When he leaves the comfort of his discussions with Circe and sails out to hear the sirens' song, his self-interpretation shifts. On shore, talking to Circe, he anticipates being tied to the mast and wanting to sail toward the sirens and issuing orders to his crew to do so, and he disavows these desires and acts as not really him – being instead the effects on him of the sirens' song. Yet out at sea, he sees things differently. Now he thinks of his planning on shore for how to prevent the sailors from hearing him as a mistake and not reflecting his true choice, but thinks of his own current desire to sail towards the sirens as authentic, and of his orders to his crew as truly his own.

What, then, changes in Odysseus, to flip this switch not only in his desires and his actions, but also in his self-understanding? My answer is that it is a switch in his values. On the shore, he values safety and hearing beautiful songs, but not actually sailing toward the sirens. But once out at sea, sailing toward the sirens becomes something that he now sees as itself good, over and above listening to their song. This switch

engenders a shift in which interpretation of himself is best biased towards the good. And that shift leaves him just as confident that his new protestations that he is now in his right mind and it is his earlier orders that should be disregarded are truly attributable to him, as he is that his desires and orders are.

5 Oppression and Systematicity

In the last section, I argued that exactly how much attributive silencing we should expect to observe and how difficult we should expect it to be to escape being attributively silenced is going to vary, according to which theory of the conditions of attributability we accept. If some account like Frankfurt's is on the right track, I argued, then attributive silencing should be relatively uncommon, and it should in most cases be relatively easy to escape, lessening any burden that it imposes. And we should expect science and education to have the power of mitigating the scope and effects of attributive silencing over time.

But if some account more like mine is on the right track, and attributability is holistic, then we should expect attributive silencing to be much more common, and we should not be surprised if it is actually quite difficult to escape, because the very same conditions that silence you with respect to some topic also silence you with respect to your efforts to communicate what is genuinely attributable to you, as they do with Odysseus. And since science and science education do not by themselves promise to narrow the range of reasonable disagreements about values or interpretation, we should not expect science or education to mitigate the scope or effects of attributive silencing over time – on the contrary, we should expect it to be essentially ineliminable.

Now, I have not offered any arguments for my own account of attributability in this paper. I have largely only used it to contrast with Frankfurt's, in order to illustrate my point that much about the expected scope and burden of attributive silencing will depend on our theories of attributability and hence of persons. Yet if my discussion of attributive silencing has led you to think that it sounds alien and rare, this itself should lead you to expect that my account of attributability is probably on the wrong track. And if instead you recognize the feeling of being dismissed as Kant dismisses Maria von Herbert and the concordant feeling of being ignored in a way that feels depersonalizing, like you have been reduced to a thing rather than a person, then you should expect, I think, even in the absence of other arguments, that something broadly like my account of attributability really is on the right track.

So let us return to the events unfolding in the song 'Baby It's Cold Outside'. On the interpretation of the song that I have called the 'available' interpretation, the female voice is genuinely trying to communicate that she desires to leave, but somehow failing in some way. It could be, of course, that her failure is entirely

the fault of her interlocutor, who understands perfectly well that she sincerely wants to go and has said so, but is pretending that they are instead in the flirty circumstance envisioned by what I have called the ‘intended’ interpretation of the song, either out of a sense of denial at being rejected or even more perniciously, in an attempt to bully or gaslight her into submission. But philosophical accounts of silencing offer us tools for understanding what else might be afoot that could make it difficult for her to communicate with him.

All philosophical accounts of silencing divide into a combination of conceptual and empirical components. The conceptual component of an account of silencing identifies what it would take for a certain kind of silencing to obtain, explains why that condition obtaining would amount to something worth being called ‘silencing’, and explores the consequences of what would follow from this variety of silencing. Whereas the empirical component of an account of silencing attempts to establish that the conditions of this kind of silencing actually do obtain as a matter of empirical fact in precisely the sorts of situations that we have identified as involving some sort of silencing, and of which we therefore would like to give the kind of insightful explanation facilitated by philosophy.

It is a striking fact that the vast majority of philosophical accounts of silencing divide the work up between conceptual and empirical components in the same highly inequitable way. Nearly all such accounts make it *easy* to establish the conceptual burdens of their account of silencing, but carry considerable burdens when it comes to establishing that the conditions of their variety of silencing actually obtain in many ordinary conditions in which people do seem to be silenced – including, paradigmatically, conditions of romantic rejection and sexual refusal, as in the ‘available’ interpretation of ‘Baby It’s Cold Outside’.

For example and paradigmatically, on the account of Langton [1993], women’s acts of sexual refusal are illocutionarily disabled because of the authoritative exercise of power by the creators of pornography. Langton’s account is, I suggest, easy to defend on conceptual grounds, once she and Hornsby [1995] have pointed the way for the rest of us. It really is possible to be illocutionarily disabled from being able to perform particular kinds of speech act, and it really is possible for this to happen with respect to assertion, as illustrated by the example of *Elf* in the department store, from section 3. The main difficulty with applying Langton’s analysis to the case of sexual refusals – even setting aside her pursuit of the dialectical goals of defending the ‘free speech’ argument against pornography – is that it is difficult to empirically establish that the creators of pornography have the right kind of power to perform this speech act, and to explain how, even if they did, it could exert an effect on the conversational dynamics even in exchanges with men who do not actually view pornography.

Attributive silencing as conceived of through the lens of my interpretive account of persons offers an illuminating contrast. Instead of dividing up the labor between conceptual and empirical components in

such a way as to shore up the conceptual component but place the burdens on the empirical component, under my account the conceptual basis of attributive silencing is very demanding, indeed. In order to even believe in the possibility of attributive silencing that works in the way that I claim it does, you have to go in for a highly substantive theory of the nature of persons – one that is rejected by nearly every published account of attributability in a very extensive literature. This is a very high conceptual burden, indeed.

Yet one of the payoffs of this quite substantial conceptual burden is that the empirical commitments required in order to apply attributive silencing are very slight, indeed. All that is required in order for women to face a systematic obstacle to their communicative efforts, on the full package of views that I have set out in this paper, is that there be widespread and systematic distortions of value in their community. Because values are an important input to personal interpretation, having systematically mistaken values is all that it takes for their interlocutors to end up with systematically wrong personal interpretations of them. So a widespread distortion in values is all that is required, in order for women to be systematically attributively silenced, if I am right about the conditions of attributability.

The question of whether there is such a widespread distortion in values is an empirical one, of course, but it is empirical in the way that ‘most people have two arms’ and ‘air is lighter than water’ are empirical. It is something that we all know and recognize and encounter throughout our lives in a gendered social world that has been shaped by the power of men. So the empirical component of my account is not something that requires investigation or defense. It is just the price of entry to recognizing the existence of gender norms in the first place.

This doesn’t mean that I am suggesting that the dynamics of romantic rejection and sexual refusal can only be explained by the mechanism of attributive silencing. On the contrary, I expect that there is likely to be a rich fabric of overlapping and interplaying phenomena at play in such cases. And I have already suggested, in section I, that at least part of the dynamics of such situations arises from the interplay between which ways of refusing are subject to silencing and which ways of refusing count as rude or risk hurting feelings or stifling the opportunity for the relationship to develop more slowly. So I am not offering attributive silencing as a competitor to other accounts. Yet I am inclined to think that if you can come so far as to accept anything like my account of the conditions of attributability, then the conclusion that it systematically affects romantic rejection and sexual refusal must be virtually irresistible.

The problem is that in order to have such pernicious effects, the systematic distortions in gender values do not need to *disvalue* anything about women at all. All that is required in order to create this effect is that some kinds of thing are valued *more* from women than from men – for example, caring, nurturing, or sex. So long as women’s caring, nurturing, or sex is valued more than men’s, interpretations of women that

are biased toward the good will also be biased – and hence distorted – towards offering greater roles for caring, nurturing, and sex. It will be harder for women to be understood as *really* declining sex, just as it will be harder for women to be understood as *really* being uninterested in listening to your problems, and harder for women to be understood as *really* suffering from postpartum depression. Though there may be additional features that complicate some of these cases and not the others, there is at least one layer on which these phenomena are alike.

As many have noted in response to MacKinnon, if some women’s attempts to refuse success are literally silenced, then they have not refused sex at all, and the question of whether any resulting sex constitutes rape may turn on whether sex requires affirmative consent. If some sexual refusals are illocutionarily disabled, then this thought is validated – for if refusal is a speech act and a woman is disabled from performing that speech act, then it is literally true that she has never refused. But if some sexual refusals are *attributively* silenced but *not* illocutionarily disabled, then in those cases the woman *has* refused. So any resulting sex is contrary to her refusal, whether sex requires affirmative consent or not. So even though it may look in some ways like my account of attributive silencing is kinder to the men to whom women’s refusals are attributively silenced, on account of the fact that this is possible through no ill will on their part, it can still capture a very natural sense in which rape is a deeply personal offense, and does not just consist in the systemic wrong of rendering women unable to refuse sex.

Yet my account is not perfectly gentle to men’s over-optimistic construals of their interlocutor’s intent, either. Though on my account it is *possible* to arrive at a false negative for attributability of someone’s behavior or speech without any ill will, in actual fact this is particularly likely to happen when wishful thinking opens us up to pay special attention to evidence that would support the hypothesis that we hope will turn out to be true. And it is surely true that the pressures of wishful thinking would point systematically in the direction of granting less credit to the hypothesis that an act is a genuine rejection or genuine refusal. So if that is right, then it is highly likely that most instances of this kind of misinterpretation are at least partly self-serving – even if they are also smoothed by social circumstances.

Now, when Langton originally advanced her account of illocutionary disablement, it was both in the service of defending both the intelligibility and truth of Catherine MacKinnon’s broader claims that pornography silences women, and in the service of defending that claim’s role in what is known as the free speech argument against pornography. If I am right so far about the social conditions that contribute to the silencing of women’s sexual refusals, then I think it is safe to conclude that most of what would conventionally be called ‘pornography’ does in fact play a role in the sustenance and promulgation of distorted gender values. And if I am right, then this effect is not limited at all to work that portrays women saying ‘no’ when they

mean ‘yes’, to work that denigrates female pleasure, or to work that portrays male dominance in sexual relations. It is instead a pervasive feature of work that glamorizes and promotes women as sexual beings in a social context in which women’s sexual contributions are valued differently than men’s. In other words, I hope, if I am right, to have captured one element of truth in MacKinnon’s claim that pornography silences women.

Yet if I have done so, it has been without offering any new means to validate the free speech argument. For the role of pornography in sustaining this set of values, on this view, does not appear to be any different from many other forms of media that glamorize women’s sexuality. Indeed, it does not appear to be any different from the song ‘Baby It’s Cold Outside’ itself, which, even on the intended interpretation, glamorizes both feminine coyness and ultimate assent, and with these, the idea of masculine sexual pursuit. So if this is right, then there are likely no easy solutions. We have our work well cut out for us. But getting closer to the truth about what is genuinely of value – that is, making a bit of progress in normative ethics – is a start.⁸

⁸ Special thanks to Mary Kate McGowan, Gwen Bradford, Jan Dowell, David Shoemaker, and to the participants in my fall 2019 graduate seminar on attributive silencing at the University of Southern California.

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