REGULATING HOMOPHOBIC HATE SPEECH: BACK TO BASICS ABOUT LANGUAGE AND POLITICS?

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Abstract: Recently, there has been an explosion of legislation designed to curb 'hate crime' that has been introduced by the previous Labour Government after 1997. This paper takes the most recent instance of incitement to hatred on grounds of sexual orientation as its starting point. I discuss the legislation in the context of debates around free speech and artistic autonomy. Making use of post-stucturalist, psychoanalytic and discourse theories I argue that there are conceptual and practical difficulties attached to the regulation of hate speech if analysed through a politics of subversive repetition. I conclude that a better approach is to think about language as reciprocal communication and to develop a politics of sustained engagement with society that ultimately adopts a more voluntary approach to changing popular uses of language.

Key-words: homophobia; hate; language; queer; politics.

On 9 July 2009 the House of Lords had the opportunity to debate for the second time in the space of eighteen months[1] the issue of the law that criminalises incitement to hatred on the grounds of sexual orientation. More specifically their Lordships were concerned with the Government's attempt

to remove the amendment to the incitement to hatred provision, which the previous year the Lords had inserted into Part 3A of the Public Order Act 1986. The amendment purports to protect free speech by allowing, '*In this Part, for the avoidance of doubt, the discussion or criticism of sexual conduct or practices shall not be taken of itself to be threatening or intended to stir up hatred.*' The debates in Parliament over incitement to hatred and the free speech amendment offer a timely opportunity to consider anew the issue of the regulation of what is generally called 'hate speech'.

The House of Lords felt obliged to retain the free speech amendment despite the fact that only the more extreme incidents of hate speech are the target of the law on incitement to hatred, because it merely prohibits words and materials that are threatening, and not just offensive or insulting. Proponents of legal regulation contend that threatening words and materials should be prohibited because they overstep the mark of acceptable boundaries of freedom of expression and generate a climate of fear within a culture of hate. One of the main arguments in favour of hate speech legislation is on the grounds that such speech may lead to violence or disorder, hence the incorporation into the Public Order Act of provisions to outlaw incitement to

hatred.[2] Banning the most virulent forms of hate speech may also shift the centre of gravity of public discourse in a more favourable direction and it may then be possible to pay more attention to day-to-day insults and harassment (Iganski, 2008). In the light of the apparently endemic levels of homophobia in society in general (Dick, 2008; Kelley, 2009) and schools in particular (Hunt and Jensen, 2006; Guasp, 2009), is it not necessary to set some boundaries as to what it is and is not acceptable to say in respect of each other? Moreover, as studies of homophobic violence demonstrate, physical attacks are often accompanied by verbal insults (Perry, 2001; Mason, 2002; Chakraborti and Garland, 2009). Hate speech 'can transform the generic hazards of hetero- -normativity into the tangible threat of more severe hostility' (Mason, 2002: 84). On this analysis it is not possible to make any firm distinctions between attacks and insults – the boundaries become blurred. Legislating against hate speech, so advocates of legal regulation such as Stonewall suggest, sends a strong symbolic signal that such behaviour is unacceptable in a civilised society.

This paper focuses on some of the theoretical debates on identity and the politics of identity that have surrounded hate speech and its regulation. In so doing I am interested in examining critically the practical political possibilities

that arise out of those theories. Judith Butler subtitled, *Excitable Speech*, her intervention in 1997 into the field of hate speech, as *A politics of the performative*. She argues against legal regulation in favour of a politics of language in which the words of hate are taken and resignified, and in the process rendered (relatively) harmless (Butler, 1997). Butler's work has been hugely influential and several of the other key writers that I discuss, such as Ruthann Robson, Michael Cobb and Gavin Butt, also develop theory for explicitly political aims. These might be summed up as seeking queer[3] liberation through language and imagery rather than through formal law. (Robson, 1998; Butt, 2005; Cobb, 2006). I aim to subject these claims to scrutiny and to answer the question: how might practical political possibilities arise from theoretical debates around hate speech and its regulation?

Firstly I consider the question of how hate speech plays a role in the constitution of the identity of its targets but in so doing I note the necessary limits placed on those who, through language, would attempt to construct the 'other' as objects of hate. Keeping in mind both the constituting effect of language and its limitations I go on to analyse the practical possibilities of language and imagery as tools of political liberation. I do so especially with

regard to subversive strategies adopted by some queer activist/artists and critically evaluate the effectiveness of such strategies based on the reworking of the words of hate. I conclude with a few instances of where we might look for evidence of a shift in public discourses away from homophobia and tentatively suggest an alternative way forward that brings back into view the notion of language as reciprocal communication.

Hate speech and the construction of identity: the limits of power

According to Barbara Perry, 'hate speech and hate acts construct a hierarchy of identities in which the hegemonic form is affirmed simultaneously with the marginalisation of others' (Perry, 2001: 180). However, as Raewyn (formerly Bob) Connell has pointed out, oppressed groups of men may, at certain times and places, reap some of the benefits of hegemonic masculinity – *because* they are still men. Further-more the dominant position is not fixed forever but is always contestable (Connell, 2005). By building on Foucault's insights that power is disparate yet unevenly distributed within society (Foucault, 1976), a new analysis is possible, that opens up the option of examining the dynamics of homophobic hate speech in a way that allows space and provides opportunities for gay

men and lesbians to resist and rework the definitions of others even while being constituted by them. If 'one comes to exist by virtue of [the] fundamental dependency on the address of the "Other"' (Butler, 1997: 6) then hate speech contributes, albeit in ways that may sometimes be unpalatable, to our notions of individual and group identities and, by extension, to the political priorities of social movements built around group identities. For example, Stonewall, the leading UK gay rights pressure group, came into existence as a response to Section 28 of the Local Government Act 1988, a particularly nasty and gratuitous piece of homophobic legislation that denigrated and profoundly disrespected gay lives. One consequence of that law was to galvanise and politicise many gay men and lesbians, so can, in this light, be seen as having a positive social effect, in direct contradiction to that which was intended by the Government of the day.

In thinking about how hate speech operates in the construction of identities it is necessary to bear in mind Butler's contention that 'one cannot know in advance the meaning that the other will assign to one's utterances' (Butler, 1997: 87). It follows that hate speech can be construed in ways contrary to which it was intended. People may present counter-arguments, ridicule its notions, be frightened by it, or treat it in myriad other ways on the grounds that 'anything

[can] be made to look good or bad, important or unimportant, useful or useless, by being redescribed' (Rorty, 1989: 7). Butler takes up the same argument from a more psychoanalytic position when she counsels against hate speech legal regulation, arguing that all language can instead be resignified. She utilises Jacques Derrida's concept of 'mimesis' in which he maintains that for speech to be a 'speech act' it must be iterable (Derrida, 1981). If the speech act can be iterated (or cited) then it can be repeated, but it can also, in a sort of linguistic turn on Darwinian evolution, be altered. The citation itself contains the necessary ingredients for 'deviance, miscitation, recontextualisation, and the possible transformation or loss of an enunciation' (Levinson, 1999: 84). We do not need to look outside of the speech act itself. Derrida's insights, allied with Foucault's notion of non-centred and disparate power provide the twin pillars for Butler's theory of performativity and the opening up of an apparent space for political action. By also utilising Austin's theories of illocutionary and perlocutionary speech (Austin, 1962) language is shown to have a communicative quality and construed as meaningful by the listener (Hornsby, 2003). In these ways we can see how speech becomes detached from the speaker and is subject to interpretation by the listener.

Hate speech, as a species in the genus of dominant discourses, helps to construct 'other' identities not just as individuals, but as part of a group. Gail Mason goes on to complicate this picture by drawing on Hannah Arendt's distinction between 'what' we are and 'who' we are (Arendt, 1958; Mason, 2002). Put simply, 'what' we are can be conceived of as our public identity, or how we are constituted by others through discourse. Hate speech and, it is argued here, hate speech legal regulation, has the effect of constructing gay men and lesbians as victims, a status which becomes known to the individual. Mason contends that this public identity is complemented, often in a contradictory way, by a private notion of 'who' we are. We may, on this analysis, be publicly apprehensive (behaving as a victim) as a consequence of the prevalence of hate speech within dominant discourses, but we may also be intensely proud of 'who' we are even if we don't feel confident enough to express that pride in all the ways that we might wish. This is a useful insight that points up some of the limitations of perpetrators of hate speech to be able to fashion people solely as silent objects of hatred. It also opens up a space for personal agency in the construction of identity.

Although Mason recognises the public (what) / private (why) divide is permeable it remains a key element in Arendt's

original analysis but it is a problematic way of conceiving identity as queer theorist, the late Eve Sedgwick argued in compelling fashion in her nuanced writing on the complexities of gender and sexual identifications (Sedgwick, 2008). Making such a firm division understates the way that the public and private seep between each other: the proud gay man may not feel quite so proud as he drops his partner's hand as a consequence of the audible mutterings of others. Those mutterings do not even need to be hostile since they can easily be interpreted as such within a cultural regime of hate and violence. On the other hand the gay men may continue, proudly, defiantly, to hold hands visibly. Or they may just ignore the 'noises off' or just not connect it with themselves. As Butler argues, subjectification is a complex and uncertain business and 'not all utterances that have the form of the performative ... actually work' (Butler, 1997: 16). In other words, the 'attempt to name us in insulting terms is precisely that: an attempt' (Mason, 2002: 115). The insult may miss its mark in all sorts of ways in the process of interpretation by the listener. Language, it might be said, 'marks the finitude of the subject's mastery, for numerous reasons, one being that it pivots on the other's understanding which no speech act can determine' (Levinson, 1999: 88).

Not only can speech acts never completely constitute the 'other' but attempts at such constitution can also be resisted. Even if hate speech does hit home 'one is also paradoxically, given certain possibilities for social existence' (Butler, 1997: 2) through the process of resignifying the offending words. Furthermore if identity is performative then it relies on continual repetition and, since being interpellated by hate speech is only temporary and transient, it cannot define one's identity. To sum up: 'no command ever fully hailed the subject into being' (Levinson, 1999: 89). This argument appears sound but it is worth remembering the recent research undertaken by Stonewall. It is the repetitive nature of homophobic bullying that makes it so psychologically and physically debilitating (i.e. constituting) for its victim. Lucy, 25, says: 'insults and minor attacks are a part of our day-to-day lives and so often we do not realise we should report them or seek help. From an early age, we are bullied in the playground, attacked for who we are or beaten for who we date' (Dick, 2008: 4). Mason rightly cautions that it is important to acknowledge the constitutive power of hate speech while recognising the space for agency as well. However, in the context of her argument that agency is opened up in the 'who' we are it is worth noting that Lucy speaks of being bullied for 'who' she is rather than for 'what' she is.

Persistent and repetitive bullying can break down the already shaky public/private divide and invade deep into the 'who', acting upon and constituting the individual, even if it does not (cannot) succeed in totally defining that person.

Rethinking the political possibilities of language

Post-stucturalist theory sets great store by the contingency of language, selfhood and community: it is to language that we must look for political strategies rather than any appeal to a shared 'human nature'. Richard Rorty argues that fundamental cultural shifts can take place through language to the extent that he posits, 'Europe did not decide to accept the idiom of Romantic poetry, or of socialist politics, or Galilean mechanics... Rather, Europe gradually lost the habit of using certain words and gradually acquired the habit of using certain others' (Rorty, 1989: 6). Leaving to one side whether a whole continent can possess agency (Elsthain, 1992), in Rorty's view the power of language enables a restructuring of the very thought of entire civilisations. The implications of this are profound in our quest to tackle homophobia; it might, in Rorty's account, be literally talked out of existence by adopting different words and sentences that then become the established vocabulary. By definition, this new vocabulary is as contingent as the one it replaces thus emphasising the

necessity for constant political vigilance. Butler is equally optimistic about the power of language to effect change. She argues that 'one of the tasks of a critical production of alternative homosexualities will be to disjoin homosexuality from the figures by which it is conveyed in dominant discourse' (Butler, 1997: 125). Rorty and Butler provide some of the foundational postmodern conceptual tools with which we might refashion the world in and through language. How might we go about doing this? What problems arise? What, if any, evidence is there of success?

a) The 'emancipatory violence' of words

A most imaginative reworking of the violence of homophobia into something positive is provided by Ruthann Robson. From an understanding that violence, especially violence from the law, is a feature of lesbian life, she re-imagines violence not in terms of the victimisation that is offered by social movements such as Stonewall, but as a positive attribute of lesbianism. It is a violence that is borne out of but then directed against 'the law's system of heterosexual and male hegemony' (Robson, 1998: 16). She uses the metaphor of 'fire' to represent violence since fire encapsulates destruction but is also essential in the process of renewal. Out of violence comes rebirth, the Phoenix arises, or in the popular rendition of Nietzsche's famous maxim: 'that which does not kill me

makes me stronger'. There is an undoubted attraction in being able not just to resist violence but to use its force for good. Robson argues, from Derrida, that all law must be, by definition, coercive (Moran and Skeggs, 2004). As illustration, in 1990 the US passed the Hate Crime Statistics Act in order to record the incidence of hate crime but in so doing it also included provisions disallowing queers similar legal protections that are afforded to racial minorities, thus perpetrating a legal violence against gay men and lesbians. In the same way we recall that the free speech amendment of the Public Order Act 1986 enshrines in law that '*In this Part, for the avoidance of doubt, the discussion or criticism of sexual conduct or practices or the urging of persons to refrain from or modify such conduct or practices shall not be taken of itself to be threatening or intended to stir up hatred.*' Robson might argue that this legal provision is violent towards queers in ways that go beyond this explicit amendment. The 'protective' element of the statute, referring to 'sexual orientation' and operating equally in favour of homosexuals and heterosexuals, 'obscures power differentials between heterosexuals and homosexuals', and 'the degendering of the category of sexual orientation is a violence against lesbians' (Robson, 1998: 21). She would refuse, though, to accept the label of victim that this statute attempts to pin on queers but would

seek instead to rework the violence of the law through the violence implied in 'the fire that warms us [as well as] burns us' and that is 'directed at emancipatory change' as opposed to 'conservative change' (Robson, 1998: 27).

Robson's study provides queer activists with a possible way of conceiving of violence as a positive political tool. However, a number of dangers reside within her analysis. Leslie Moran and Beverley Skeggs are especially concerned that she makes such a clear divide between 'emancipatory' (lesbian) and 'conservative' (legal) violence. She seems to be saying that lesbian violence will be emancipatory almost by definition without considering the possibility of a conservative effect. In so doing she seems to overlook Derrida's insight that language contains within itself its own possibilities for its opposites: the emancipatory must, therefore, contain an element of the conservative (Moran and Skeggs, 2004). At a practical level, violence, in the form of direct action, is not a new political tool used by gay activists; the AIDS Coalition to Unleash Power (ACT UP) have used tactics such as trashing the conference display stands of pharmaceutical companies as part of their campaign to raise awareness of corporate profiteering from AIDS. The political dangers of direct action were brought into sharp relief during the 1990 US presidential campaign of Pat Robertson, a homophobic evangelical preacher, when he

announced that the core of his campaign would be opposition to abortion and homosexuality. 'Robertson's announcement was greeted by an angry group of activists, many from ACT UP... Robertson could not have prayed for a better greeting. In photos published across the country, the angry mob, toting **ROBERTSON EQUALS DEATH** posters, managed to make Robertson look reasonable by comparison' (Gallagher and Bull, 1996: 16). Ruthann Robson provides us with a way of thinking about hate speech that does not necessarily render its target constituted as victim, but we need to remain alive to the fact that language, even emancipatory language, can escape from the intentions of the speaker. To overcome this problem it may be useful to think about the politics of language in rather different terms.

b) Disclosing the 'queer Word'

Michael Cobb offers a similar vision to Robson in that he wishes to turn the rhetoric of violence, particularly the rhetorics of religious violence into a positive political strategy. Whereas Butler's psychoanalytic treatment proposes a resignification of language that slips into and out of the gaps where hate speech misses its targets, Cobb wishes to 'mine the hostility and politics of the old and very rhetorical forms of national [US] belonging that have always been religiously legitimated by... instances of strong conservative language'

(Cobb, 2006: 10). In so doing he eschews the politics of difference because different identities are significantly constituted by the dominant discourses, including hate speech, of the nation state. Instead he 'advocates a politics already embedded in the worst words of the nation' because, 'despite the particular rhetorical violence inflicted perniciously upon queers by conservative, collective expressions of US belonging, LGBTQ feeling, politics, aesthetics, and ideologies have long understood the kind of power the repetition of religious hate speech offers' (Cobb, 2006: 10). Contrary to Rorty or Butler, Cobb is not trying to wrest the meanings of words to make different ends, but to harness the emotional power of those words, especially the power of religious feeling, so as to effect a queering of religious hate speech, which he calls the 'queer Word'.

Cobb argues that the emotive language of religious hate speech, because it resembles racist speech, enables queers to access the political territory of resistance staked out by African Americans in their demands for civil rights. While acknowledging the difficulties that such an analogy inevitably raises (Butler, 1997; Robson, 1998), Cobb maintains that the repetition of religious hate speech allows queers to tap into the politics of race. Crucially he argues that the analogy makes use of the troubled politics of identity such

that 'the rhetorical connection that queers make to race is emotional, sentimental, and charged with a peculiar political force' (Cobb, 2006: 13). He insists that the sites of political resistance lie primarily in the literary and figurative and that these sites open up possibilities for strategic fictions that explore the notion of what it means '*to feel like*, rather than *be*, a racial minority' (Cobb, 2006: 14). He understands that the 'like race' analogy is essentially phantasmatic, but one that can and must be manipulated for queer cultural and political advantage; a quest for freedom rather than a search for truth. Cobb's notion of freedom is no Rortyan 'shining city on a hill' liberal utopia, but it does make use of the emotional strength of such evocative religious phrases, for Cobb's crucial insight is that religious words do not actually mean very much. The constant liturgical repetition has disembowelled religious words of meaning but endowed them with a massive feeling of power.

Take the word 'Amen': to discuss what this word actually means is to miss the point, for 'it is a strong speech act, enabling the religious thought, experience, or emotion to have definitive weight' (Cobb, 2006: 69). Religious words imbue political and legal discourse for this very reason; they shroud those discourses in a sense or feeling of power that no meaning could ever convey. Therefore, Cobb argues, a

queer political strategy should not engage with a Butlerian 'resignification' project which he sees as offering mainly a therapeutic role, carving out a space in language in an otherwise hostile environment, having forever to guard the gates of a fragile edifice that we, ourselves, have built. Instead he argues for a wholesale queer adoption of the religious language, the language of hate. Such an adoption would give queer access to an almost primal, elemental set of words that give the appearance of being sovereign and 'essential', and which enable the expression of queer desire as queer emotion. It is the through the arousal of emotion, rather than the confession of desire where Cobb sees political possibilities.

Cobb's project is of great value in opening up a potential means by which the most powerful words, the words given sovereign force, can be used queerly. There is a certain practicality about the project as well; many people cannot be or do not want always to be political storm troopers on the queer front line, but may also wish to lead private lives of honesty and fulfilment to their queer selves. Accessing the religious language of hate and turning it into the expression of queer emotion, while at the same time maintaining a degree of personal safety in a hostile world, has its attractions. However, Cobb's attempts to develop a political strategy out

of an arousal of queer emotion elicits a problem with the very advantage his theory allows; the fact that using religious language allows for the expression of queer feelings while at the same time disguising queer desire. He acknowledges that his political project is to be undertaken obliquely but by failing to change the meaning of language of hate then it is hard to see what political progress can be made. Anger may have been stirred but there are few clues as to how it might be channelled and utilised for queer liberation. Cobb seems to be weighed down by the forces of societal oppression and although he suggests an interesting way out, it is surely not correct to start a political campaign from a position where you believe that the 'historical story of queer difference can never compete with the guaranteed force and meaning of the sovereign's word – the force and meaning that comes, in part, from its hatred of queers' (Cobb, 2006: 70). By admitting that queers will never be able to compete successfully against sovereign oppression Cobb offers a personal survival tactic, not so very different from his accusation against Butler, rather than a political strategy.

A partial answer to the problem might lie in strategic use of the Althusserian notion of interpellation. In his investigation of queer disclosures in the New York art world Gavin Butt contends that queer artists, in a period (1948 – 1963)

of extreme hostility against gays, were forced to conceal their sexuality from public view. However, on an interpretative register, art could reveal sexuality to those who could decode it; like a dog whistle, art has the power to call to perverse identifications, which remain invisible or silent to the majority who lack the interpretative skills (Butt, 2005). These days we might call it our 'gaydar', picking up the signals that hail us. In *Go Tell It on the Mountain*, published in 1953 at the height of McCarthyism, James Baldwin invests the character John with the full emotive force of religious language. In this way John is singing a powerful 'hidden' song to queers all around him, giving them, in turn, voices through powerful emotive language and identification through 'the realm of the interpretative imaginary' (Butt, 2005: 109). This interpretative imaginary is so strong that it can decode silence itself as queer and at the same time, as Cobb predicts, may forestall it being returned as violence. For instance, Allen Ginsberg's 1956 poem, Howl, 'a supremely campy poem' (Bergman, 1993: 107), was the subject of a US obscenity trial for the line 'Who let themselves be.... [six dots] in the... [three dots] by saintly motorcyclists and screamed with joy'. The judge ruled that the prosecution case was inadmissible since they could only speculate as to the missing words. 'The law, at least in respect of the homoeroticism of *Howl*, was therefore only interested

in that which was legible as cultural *text*. The realm of the interpretative imaginary, and its plural and oscillating field of identifications, was consigned to the realm of the unreal, to that which was not "really there" and therefore unavailable to be legislated against' (Butt, 2005: 159). It should be noted here that by remaining at least partially hidden, queer artists did nothing to diminish the culture of suspicion entertained by McCarthyite inquisitors, that closeted homosexuals occupied positions power and influence in the highest reaches US society; in fact it fuelled that suspicion. Nevertheless our brief consideration here of Baldwin's novel and Ginsberg's poem brings us to a point where we can consider in more detail the role of subversive strategies adopted by queer activist/artists in a quest for political freedoms.

Artistic freedom and subversive strategies

Set free by post-stucturalist theories, queer activists were quick to appropriate language and imagery 'as a means of subverting and attacking it from within' (Adler, 1996: 1504). What are the implications of this for hate speech regulation? Despite attempts at its re-appropriation by gay activists, the term 'queer', for example, still remains a term of abuse. Can we both ban the speech that hates while at the same time retain the subversive parodies that may help us? Is it

possible, for example, to ban homophobic graffiti that says 'Fight AIDS Kill a Quere [sic]' (Adler, 1996: 1523) yet allow gay artist David Wojnarovicz to photograph and display the same words to highlight the ignorance of those who misspell queer as 'quere'? Amy Adler suggests that a number of criteria might be developed to help in the task. These are: (1) artistic status, (2) context, (3) effect, or victim's assessment of harm, and (4) speaker's intent. There are a great number of difficulties in determining artistic value or context, but perhaps more than anything we should be wary of giving the courts the job of making those decisions (Adler, 1996; Butler, 1997; Zingo, 1998). Even if we are prepared to trust in the judgement of the courts, Adler maintains that there is an inherent conflict between criteria (3) and (4) that is impossible to resolve. What can be done in the situation where the speaker says, 'I was being satirical, or ironic, in my use of hate speech' but the 'victim' says, 'I was hurt by those words'? This is not, in any sense, an academic debate. In 2006 the BBC received a complaint from a viewer who found the *Catherine Tate Show* offensive because viewers were invited to laugh at the obvious and exaggerated gayness of the character Derek Faye. In this case the BBC Board of Governors ruled in favour of the show because the series was dominated by extreme, ridiculous characters that were 'not

meant to be taken literally or too seriously' (Sherwin, 2006). This is not a conflict that can be resolved by any appeal to theory. Adler maintains that if hate speech is banned then much activist speech will get caught up in the same net on the 'effect' criteria. If activist speech escapes on the 'intent' principle then many victims may feel that they have been hurt.

A better question is to ask whether activist/artist parodies are so subversive in the first place and, even if they are, do they work on a political level? Counter-hate speech strategies are dependent, at least partly, on parody to work their seditious magic. The hate-filled text stands, usually quite clearly, in the background and irony is the rhetorical mechanism by which the parodic text can be distinguished from the original. It is the recognition of the irony within the reworked text that 'allows the decoder to interpret and evaluate' (Hutcheon, 2000: 31) the new subversive text. 'Parody, then, in its ironic 'trans-contextualisation' and inversion, is repetition with difference' (Hutcheon, 2000: 32). Parody, therefore, is said to work through the practice of resignification because as 'Nietzsche writes in the *Genealogy of Morals*, 'the entire history of a "thing", an organ, a custom can be a continuous sign-chain of ever new interpretations and adaptations' (Butler, 1993: 224). No words are fixed

forever in their meaning. It is, of course, this mutability of language that poses such difficulties for effective legislation against hate speech. In fact the subversive political goal is to effect such a change. However, Butler herself warns of some of the limitations of resignification because 'neither power nor discourse are rendered anew at every moment; they are not as weightless as the utopics of radical resignification might imply' (Butler, 1993: 224). The problem is that the parodic text never completely escapes its source; to do so would, by definition, stop it from being parodic. This is the consequence of Derrida's insights: at the limit parody is impossible. Therefore, the paradox of parody is that 'its transgression is always authorised. In imitating, even with critical difference, parody reinforces. In Foucauldian terms, transgression becomes the affirmation of limited being' (Hutcheon, 2000: 26).

It is the trope of irony that creates the critical distance that enables parody to go about its political business. This work must, as we have seen, be a limited project. It cannot, within its own terms, overturn the weight of history. In the same way as censors are often compelled to repeat the speech they wish to ban, then parodists, however subversive, are condemned to re-inflict the wounds they seek to heal. The question, then, becomes more a question

of balance and judgement; is it better to allow activist/ artist subversive parodists to work, or is it necessary to ban the 'words that wound' (Matsuda, 1989; Matsuda, Lawrence, Delgado and Crenshaw, 1993; Lawrence, 1999)? Does David Wojnarovicz's photograph work better to ridicule the perpetrators of hate, or worse to repeat the harm? Does the 1992 cult film Romper Stomper which portrays the hate-filled violence of an Australian fascist group, better show their ignorance, lack of trust in each other and ideological hollowness, or does it merely reiterate Nazism as a legitimate political creed? These examples highlight one of the key practical difficulties of irony as politics; the ironic intent, in order to work, needs to be decoded correctly by the recipient. It often fails in this task.[4]

Back to basics? Language for the purpose of communication

Has the post-stucturalist political project come up short against the internal limits of its own linguistic possibilities? Brett Levinson, for one, seems to think so. He utilises Jacques Lacan's idea that 'his majesty, the baby' is introduced to the limits of his own power because his demands on the supplier (usually the mother) cannot be met. In other words the limits of language are exposed to the baby. He contends that while language 'discloses a limit, it does not represent a prohibition'

(Levinson, 1999: 90). The problem is that the subject, formed through experiences as a baby, has misrecognised the limits of language as a prohibition rather than an opening up, implied by the limit that is also a boundary, to the social world. Since the subject has made this misrecognition then it is forever trying to reclaim its (imaginary) independence. The consequence is that the subject will always seek to transcend the prohibitive statute in order to attempt to free itself from the limits (misrecognised as prohibitions) of language. In this way, 'legal injunctions... license their own subversion' (Levinson, 1999: 90). It is clear, from this analysis, that a counter-hate speech subversive strategy contains within it the elements of its own structural weakness. It is argued here that the insights provided by psychoanalytic theory would indicate that a better policy may be to encourage the subject to engage with the 'other' since the function of language is relational, binding the self to the social (Benjamin, 1998). Understanding the finitude of language, and therefore also of law, acts as a warning to those who would displace one law with another because, 'no law can dictate the precise line, limit, or boundary between what it permits and what it prohibits... the limit of the law is the limit of the law, the finitude of its determination or domain, *as well as of its counter-determination*' (Levinson, 1999: 91). So much

then for Butler's queer political project (Butler, 1990; 1993; 1997) which Levinson dismisses as an attempt by the (albeit newly empowered) queer subject to make itself the imaginary and, therefore, doomed master, and which must fall on exposure to its inevitable limit.

In *Excitable Speech*, Butler may have overstated the political case for resignification, not fully taking into account Derrida's insight that words must always and forever contain within themselves the seeds of their own destruction. However, there may be a better way of reading Derrida that provides more fruitful political possibilities. Rorty argues that a more productive understanding of Derrida, taken from his later writings[5], is to say that he uses language to enter a phantasmatic world whereby he is able to recontextualise his philosopher predecessors, especially Hegel, Nietzsche and Heidegger, without falling into an essentialist identity trap of "we" which would fix them (and him) in language (Rorty, 1989). From here it is arguable that Michael Cobb has avoided Butler's pitfall as he does not attempt to overthrow the current master signifier and replace it with a new one, but to utilise the current one for new, darkly phantasmatic, queer purposes. He argues for a political project that appropriates the language of hate that is religious language in order to evoke a fiction, the fiction being that 'queer' is 'like race'

thus appealing to the heart rather than to the head. It is in this emotional appeal that Cobb's theory escapes the problems of resignification because it is not concerned with the meanings of words, but rather with the raw feelings those words might conjure. In other words, 'within that awful aesthetic, we have a babbling that produces an emotional force that impresses an intense feeling of wrong' (Cobb, 2006: 99). By strategically utilising the notion of interpellation we can see how these queer emotions can have a communicative, and therefore, political purpose. If liberationist politics are not about a shared sense of anger and resentment then what are they about? Cobb argues for hitching a ride on the politics of civil rights through the queer appropriation of the language of emotion. We may be able to go further: Gavin Butt considers that it is impossible to recapture a queer history, and therefore queer liberation, through the traditional techniques of study of documents and other artefacts because the homosexual will inevitably have been erased from that history. No amount of pointing to rare examples of queer visibility such as the seventeenth-century London molly houses (Cook, 2003; Cocks and Houlbrook, 2006) will make up for the long stretches of historical silence. So what to do? Butt suggests taking the scraps of knowledge and the fragile ways we know the things we think we know and

to build structures of new knowledge from those tenuous foundations with our own imagination as the architect. He shows us how by exploring the gossip that surrounded and was part of the New York art world in an extended decade of the 1950s. He takes that gossip, or what he presumes to be that gossip, and produces his own new history. In so doing he recaptures Andy Warhol's 'swish gayness' and Jasper Johns' rejected artwork[6]. His book 'revels in... flirtatious queer-ness – both in terms of subject and method' (Butt, 2005: 164). Queer knowledge needs queer methods for discovering that knowledge. Imagination can be called upon as part of the queer political project since existing knowledge is al-ready saturated by hetero-normative fictions. Phantasmatic ways of understanding the past, attuning ourselves to hear the hushed calls of our queer predecessors, are necessary to unearth and reveal a new queer historical record. In this way it is possible to reunite post-stucturalist theories with a politics of identity that may escape the theoretical and practical holes in which 'resignification' finds itself.

Conclusion

How might some of these theoretical considerations help us think about the politics of hate and the development of counter-strategies to those who do the hating? I will offer

two recent but different approaches to try to ground some of the theory in the urgent matter of day-to-day politics.

A recent 60-second film commissioned by the Football Association shows a man making homophobic abusive comments to people on the street, on a train and in a workplace and, finally, at a football game[7]. The idea behind the film is to highlight that homophobic abuse is unacceptable in daily life so why should it be acceptable at a football match? The film attempts a resignification of language by bringing within the scope of meaning of homophobic speech a notion of unacceptability, even to imbue homophobic language with the idea that it is deplorable. The problems are clear. Some people may regard homophobic abuse as acceptable and the message will be resisted or simply not recognised. In a strategy that echoes the theoretical work of Michael Cobb the film uses the very language of hate to underscore its message. It is debateable whether this approach offers a path towards queer freedom or if it merely re-inflicts the harms it wishes to avoid: possibly there is an element of both and it is a question of judgement whether it is effective. It may even, in a Foucaultian process of reverse discourse, help constitute and embolden those who would hate. Perhaps the film misses its mark most significantly by failing to recognise that as Ignanski shows, it is precisely on the street, train and

workplace that hate speech is to be found in its day-to-day manifestations. These are not arenas where hate is found to be unacceptable: it is tolerated all too often.

A rather different approach has been taken in the critical field of education by the *No Outsiders* project which aims to integrate anti-homophobia materials across the breadth of school life, both inside and beyond the curriculum. Evidence over the twenty-eight month project demonstrated significant positive changes in attitudes towards gay people from pupils, parents and staff (DePalma and Atkinson, 2009). This project spurns an easy approach to tackling homophobia through a simple resignification of language but offers instead a sustained engagement with people and the issues. It is a practical example of how language can be put to its communicative purpose so that it opens the subject to the social world. Rather than attempting to close down language and keep the 'other' at bay, it provides a space for engagement and, at least partial mutual understanding, even if we can never know the 'other' fully. This approach does not interpellate queer identities by stealth but rather calls us into the full light of day. It is, of course, a strategy not without its risks as it pulls down defensive shields that

might otherwise protect us. But those defences, otherwise known as the closet's walls, are shaky, unreliable and with no foundation in queer lives.

The debates will and must continue, but as we move towards the second decade of the twenty-first century it is certain that, as a consequence of feminist, post-stucturalist and queer thinking, the oppressed 'other' has become more visible and revealed in a positive light. At the same time it is arguable that the discourse of hate, at least in the form of 'discrimination', may also have altered for the better in the last twenty years. Jon Gould makes the point that speech codes, which in the US have been struck down under the First Amendment, are, in fact, endemic throughout US society. He argues that this apparent paradox can be explained because the ideological basis of speech codes, such as respect for others, has taken hold at the level of the public. Gould calls it the 'mass constitutionalism of hate speech regulation' (Gould, 2006: 184). Such codes may be voluntary but all the more powerful for that. Similarly in the United Kingdom, most large employers have equal opportunities policies that ban certain forms of discriminatory language, even if obedience is partial and enforcement patchy. Educational establishments usually insist, at least in theory if not always in practice, on mutual respect in and out of the classroom in order not just

to enable equal access to learning but also to promote a harmonious educational atmosphere. In some parts of the public realm at least, there appears to have been a shift in discourse at the levels of policy and practice (Anderson, 2009; 2011). Perhaps we really are witnessing in this process a 'Rortyan' redescription of vocabularies in which the language of hate slowly disappears as individuals and eventually whole societies lose the habit of using such language. Rorty was ever the utopian! These are, though, grounds for optimism. There is some embryonic evidence that a more voluntary approach, using language as a means to connect subjects to the social world, with sustained education and awareness campaigns, perhaps enhanced with occasional splashes of ironic humour, can help change public and private discourses in positive ways.

Notes

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[1] The House of Lords first debated the provision between January and May 2008 during the passage through Parliament of the Criminal Justice and Immigration Act 2008.

[2] The first conviction under the provision was on January 20th 2012 at Derby Crown Court. For a discussion on the nugatory effect of the incitement provisions in relation to religious hatred see Goodall, K, (2007) 'Incitement to Religious Hatred: All Talk and No Substance?' *Modern Law Review* 70(1): 89 -113.

[3] The term 'queer' is used in this paper not only to mean

gay men and lesbians but also to imply a political agenda of rights and freedoms.

[4] A famous example of this phenomenon was the British sitcom, 'Till Death Us Do Part' where the racist protagonist, Alf Garnett, was favourably received by the majority of viewers in complete contrast to the intentions of the scriptwriter and actor.

[5] Rorty discusses Derrida's 1987 book, 'The Post Card: From Socrates to Freud and Beyond', especially 'Envois', as an excursion into fantasy, albeit only in a private context.

[6] In 1958 the curator of the Museum of Modern Art in New York refused to buy John's 'Target with Plaster Casts' because one of the casts was of a penis.

[7] The film can be found at http://www.kickitout.org/1057.php (accessed 2 May 2010).

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